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ABSTRACT

This is the third edition of a workbook prepared as a kind of primer for those responsible for the administration of charitable remainder trusts in accordance with the Tax Reform Act of 1969. The topics covered include: trust administration in general; pooled income fund; unitrust; annuity trust; gift annuity; short term income (lead) trust; gift of residence; remainder trust comparison; and revenue ruling summaries for 1969-1978. Among the items included in each of these categories are: definition and investment considerations; regulations and tables; sample provisions; governing instrument; deduction calculation; sample agreement; tax reports; and other specific calculations, illustrations, and information items. (MSE)

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ED159991

Guide to the Administration of Charitable Remainder Trusts

Third Edition 1978

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with assistance from John Holt Myers, and Robert H. Myers, Jr. Williams, Myers and Quiggle

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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PREFACE

This is the third edition of a workbook prepared as a kind of primer and practical guide for those responsible for the administration of charitable remainder gifts in accordance with the Tax Reform Act of 1969. It does not attempt to give an exhaustive treatment to this complex subject, nor can it possibly substitute for a careful reading of the law itself and subsequent regulations. Careful, informed legal review is absolutely essential before any institution attempts to administer a program of deferred gifts and attention must be given to new developments and requirements as the Treasury Department continues its interpretation of the new law.

This third edition differs substantially from earlier editions in the organization of the material included. Some sections, such as Accounting Procedures, have been completely dropped based on the editors' assumption that such help is now readily available from such organizations as the National Association of College and University Business Officers (NACUBO). On the other hand, some sections have been substantially expanded or are totally new. Model instruments have been added for making gifts to a Pooled Income Fund, a Unitrust, or Annuity Trust by bequest. A section has also been added covering a gift of residence or farm with life income reserved.

The editors are especially grateful to John Holt Myers of Williams, Myers & Quiggle for his expertise, draftsmanship, and counsel in the preparation of the *Guide*. Considerable help was also provided by Robert H. Myers, Jr. of that firm. In addition, the editors wish to express appreciation to Conrad Teitell for allowing the inclusion of model language for a Charitable Income (Lead) Trust in both testamentary and *inter vivos* form.

It is with understandable alarm that charitable organizations have witnessed a rash of new regulations dealing with minute technicalia.

Included at the end of the Guide is a comprehensive summary of the many Rulings which have come down to date. Unfortunately, other rulings may make this Guide obsolete even prior to this distribution. Users of the Guide are cautioned to watch carefully for future changes, and wherever possible, to seek private letter rulings for all documents which they use with their donors.

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Trust Administration

INTEROFFICE COMMUNICATIONS

A. Assignment of Responsibilities

The management and administration of each type of life income trust involves three distinct functions -- Development, Administration and Investment. Because of wide differences in sizes of institutions and in administrative organization, the handling of these functions will vary from institution to institution. However, all three functions pertain to every charitable remainder trust.

To detail the administrative functions and the necessary interchange of information between those responsible for those functions, it is assumed here that three separate administrative agencies are involved, which we will call the Development Office, the Business Office and the Investment Office. The management operations for each charitable remainder trust will normally break down between these three offices as follows:

1. Development Office

- (a) Negotiations with the Donor leading to the execution of the gift and the creation of the trust.
- (b) Actual execution of the trust agreement by the institution and the Donor, and distribution of the trust instrument to appropriate offices.
- (c) Computation of the charitable remainder and the reporting of this to the Donor.
- (d) Obtaining from the Donor all the basic information (see page 9) required for management and administration of the trust.
- (e) Continued liaison with the Donor and beneficiaries with respect to reports, questions, problems, etc., concerning the operation of the trust.

2. Business Office

- (a) Maintenance of all accounting records for the administration of the trusts.
- (b) Calculation and preparation of all income payments to the beneficiaries (forwarded either directly or via the Development Office).
- (c) Preparation and forwarding of all fiduciary reports to the I.R.S. and beneficiaries.

3. Investment Office

- (a) Determination of investment policies with respect to the various types of separately invested unitrusts and annuity trusts and the pooled income fund.

B. Preparation of Data

For each office to be able to function efficiently, it is essential to establish an interoffice communication system whereby all necessary information on each trust is supplied to each operating office. The necessary data will vary according to the type of trust, but it is recommended that complete details for every trust, regardless of type, always be available to each office.

Since the Development Officer will normally be the original recipient of the essential data, it is his responsibility to communicate all appropriate information to the Business Office and the Investment Office. A standard form for the communication of all pertinent information is recommended, to be filled out in triplicate -- one copy each for the Business Office, the Investment Office and the Development Office. A sample form, adaptable to the needs of any institution appears on page 9).

C. Reporting for the Business Office to the Development Office

1. Date by which all periodic (monthly, quarterly, semi-annual or annual) income payments have been mailed.
2. Date by which all fiduciary reports to the I.R.S. and beneficiaries have been mailed.
3. Adjusted annual payout for the pooled income fund as soon as possible after the close of the taxable year.

D. Reporting by the Investment Office to the Development and Business Offices

1. Any change (or proposed change) in the investments of a separately invested trust.
2. The complete list of investments of each separately invested trust and the pooled income fund -- together with market valuations at some predetermined annual date.

E. Special Communications

The office which first receives the following information should immediately report same to the other two offices:

1. Date of death of any life income beneficiary, the name and address of the surviving beneficiary (if any) and whether or not the death of the beneficiary signifies the termination of the trust.
2. Any errors or complaints with respect to any aspect of the administration of any trust.

DONOR-ELICITED INFORMATION

To some extent the factual material required from the Donor will differ with the particular type of life income plan. However, it is suggested that all of the following information be determined and properly recorded for any type of life income gift -- pooled fund, unitrust, annuity trust, or gift annuity.

A. Personal Information

- (1) The names, addresses of Donor and all beneficiaires (including seasonal alternative addresses, if appropriate) and the relationship of the Donor to all beneficiaries.
- (2) The birth dates of all beneficiaries (required for computation and report of the charitable remainder).
- (3) The social security numbers of all beneficiaries (required for fiduciary reports to the Internal Revenue Service).
- (4) Name and address of the Donor's attorney, accountant or other professional advisor, if appropriate.

B. Gift Information

- (1) Nature and value of gift property.
- (2) Cost basis of the donated property, other than cash. This is important inasmuch as the trust takes over the Donor's basis.
- (3) The Donor's method of acquisition of the donated property by purchase, gift, inheritance, etc., in the case of gifts of appreciated property.
- (4) The Donor's date of acquisition and holding period of the donated property. Especially important in the case of appreciated property to be certain that the Donor's appreciation in the property is long-term.

C. Special Considerations

- (1) What type of plan, distribution rate and tax deductibility will fit the individual Donor's particular circumstance? These are the

considerations which should be discussed with the Donor to determine which type of life income plan will be most appropriate for him.

- a. Is he primarily interested in maximum income (net income unitrust invested in high-yield bonds or high-yield pooled fund?)
 - b. Is he interested in minimum income now and maximum income later (net income unitrust invested for growth and low income now with the option of switching to high-yield investment later)?
 - c. Is he interested primarily in maximum tax deductibility?
 - d. Is he interested in getting assured income, taxed in the most favorable way (straight unitrust or annuity trust, some of the income from which can be taxed at favorable capital gains rates or not taxed at all as return of principal)?
 - e. Size of gift often influences type of plan, i.e., small fund (less than \$10,000) is normally best invested in the pooled fund to permit diversification of investment.
 - f. What other types of investment does he have? How will this gift fit into his overall financial and estate plan?
- (2) Data required for preparation of the trust agreement:
- a. Name of the trust or fund (especially if the fund is to be recorded in the institutional financial records and reports).
 - b. The eventual institutional use of the fund at such time as it becomes freely available to the institution upon the death of the last surviving life income beneficiary.
 - c. The desired taxable year, valuation date and frequency of payout (although these factors will normally be standard for the institution, especially for Pooled Income Fund).

Page 7 is a sample data sheet summarizing much of this information in a manner suitable for interoffice use:

TRUST DATAFUND OR TRUST NAME PHIL N. THROPIST TRUST Dated 5/24/77Donor Name and Address: MR. PHIL N. THROPIST
PINE TREE LANE
NEWPORT, N.Y. 10708Type of Agreement: STRAIGHT UNITRUSTTax I.D. No. 12-345678

Account No. _____

GIFT INFORMATIONDescription of gift property: 1600 SHARES, AMERICAN TEL & TEL - commonMarket Value: \$ 100,000 (\$2.50 per share) Donor's Basis: \$ 68,800 (\$43 per share)Donor's Method of Acquisition: PURCHASEDonor's Date of Acquisition: 1967-1969 Date of Gift: 5/24/77Charitable Remainder Value: \$ 41,678BENEFICIARY INFORMATION:

First Beneficiary

Second Beneficiary

Name and Address:

PHIL N. THROPIST
PINE TREE LANE
NEWPORT, N.Y. 10708HELEN C. THROPIST
PINE TREE LANE
NEWPORT, N.Y. 10708

Social Security No.:

031-09-7833183-54-9535

Birthdate:

JAN. 5, 1904JUNE 24, 1904

Relationship to Donor:

DONORWIFEADMINISTRATIVE INFORMATIONPayment Amount or Percent: 6%Payment Schedule: QUARTERLYDate of First Payment: JUNE 30, 1977Trust Year: CALENDAR YEARValuation Date(s): FIRST BUSINESS DAY OF YEAR

Eventual Institutional Use:

GENERAL PURPOSES (UNRESTRICTED)

Investment Policy Considerations:

MAXIMIZE GROWTH AND MINIMIZE ORDINARY INCOME

TRUST DATA

FUND OR TRUST NAME _____ Dated _____

Donor Name and Address: _____

Type of Agreement: _____

Tax I.D. No. _____ Account No. _____

GIFT INFORMATION

Description of gift property: _____

Market Value: \$ _____ Donor's Basis: \$ _____

Donor's Method of Acquisition: _____

Donor's Date of Acquisition: _____ Date of Gift: _____

Charitable Remainder Value: \$ _____

BENEFICIARY INFORMATION:

First Beneficiary

Second Beneficiary

Name and Address: _____

Social Security No.: _____

Birthdate: _____

Relationship to Donor: _____

ADMINISTRATIVE INFORMATION

Payment Amount or Percent: _____

Payment Schedule: _____ Date of First Payment: _____

Trust Year: _____

Valuation Date(s): _____

Eventual Institutional Use: _____

Investment Policy Considerations: _____

ACCOUNTING, RECORD KEEPING AND TAX REPORTING

At most institutions it will be the business office which is responsible for administrative details and actions with regard to charitable remainder gifts, including accounting, maintenance of files and records, making necessary valuations, preparing payments for beneficiaries, filing required tax returns with the Internal Revenue Service and beneficiaries, making reports to State Tax or Insurance Commissions where applicable.

The business officer and personnel in the business office who work on charitable remainder gifts should become thoroughly familiar with the portions of the Internal Revenue Code and regulations dealing with the various types of life income plans. The basic information for the administration and management of each charitable remainder gift will be made available to the business office by means of a copy of the trust agreement and the communications from the development and investment offices as covered in the previous section of this publication. Upon the receipt of each new charitable remainder gift, the business office must be prepared to take the following actions:

A. Pooled Fund Trust

- (1) Assign the appropriate number of pooled fund shares to the new gift according to the procedures and calculations in the Pooled Fund Declaration of Trust.
- (2) Set up the fund record and payment documents for the new gift.
- (3) Set up a file for the fund, to include copy of the agreement, communications from other offices in the institution, copies of correspondence pertaining to the new gift, names, addresses and social security numbers of the beneficiaries, etc.
- (4) Calculate the payments to the appropriate beneficiary at the specified intervals and see that they are properly forwarded.

- (5) Advise the beneficiary immediately after the final payment in each taxable year as to the exact amount of income paid to him by the pool during that year and how he should report it on his Form 1040. (Form 1041-K-1 is normally used for this purpose.)

In addition, the business office is responsible for administration of the pooled fund itself. It is recommended that the accounting methods and records for this purpose follow the procedures established for pooled endowment funds in Chapter 4 of College and University Business Administration, revised edition, published by the American Council on Education in 1968 and in Audits of Colleges and Universities published jointly by NACUBO and AICPA. The business office must also make the periodic market valuations of the pooled fund investments as required in the Declaration of Trust (first day of the taxable year of the pool and at least quarterly thereafter), and must compute the new unit share value of the pool at the time of each valuation.

As soon as possible after the close of each taxable year, the business office will compute the adjusted yearly rate of return for that year of the pool (see Pooled Fund Regulation 1.642(c)-6 on page 22 and recommended worksheet for this computation on page 99 of this publication). As early as possible in each new taxable year, the business office should report to the development office the rate of return to be used for computation of charitable remainders of pooled fund gifts in the new year (highest rate of return for the three preceding taxable years, or 6% if the pool is less than three years old.)

The business office should prepare and file Form 1041 for the pooled fund on or before the 15th day of the fourth month following the close of the taxable year of the pool. Form 5227 is also required. (See examples which follow on pages 103 and 105 .) At the time the first 1041 is filed for a new pool, a copy of the pool Declaration of Trust should be attached. If the Declaration of Trust is

amended, a copy of the amendments should be attached to the next 1041 which is filed for the pool. As required by Reg. 1.642(c)-6(c)(4), the calculation of the pool's yearly rate of return must be attached. A sample calculation form suitable for this purpose is found on page 99.

B. Unitrust

- (1) Upon receipt of a new unitrust gift, the business office should apply for an IRS employer identification number using Form SS-4.
- (2) Establish accounts and worksheets for the unitrust.
- (3) Set up a file for the unitrust, to include copy of the trust agreement, all communications and correspondence relating to the trust, names, addresses, social security numbers of beneficiaries, etc.
- (4) Determine the market value of the trust investments on the valuation date(s) specified in the trust agreement (including the valuation of additional gifts, if any) and calculate the annual amount to be paid to the beneficiary (straight unitrust) or the maximum amount that can be paid (net income unitrust).
- (5) Make the appropriate payments to the beneficiary according to the intervals and times specified in the trust agreement.
- (6) Prepare and file Forms 1041-B and 5227 on or before the 15th day of the fourth month following the close of the taxable year of the trust (see example on page 199). The first 1041-B filed for a new unitrust should have attached a copy of the unitrust agreement, which the fiduciary must declare is a true and complete copy. If the trust is subsequently amended, a true copy of the amendments should be attached to the next 1041-B filed for the trust.
- (7) Immediately after the final unitrust payment for each taxable year,

the business office should report to the beneficiary (usually on form K-1) the total income paid by the trust for that year. In the case of a straight unitrust, the total income paid is to be broken down into the various types of income according to the "tiered" system required by the regulations - ordinary income, long-term capital gains, other income and return of principal.

C. Annuity Trust

The business office responsibilities with respect to an annuity trust are the same as for the straight unitrust except that it is not necessary to determine the market value of the trust assets each year. The required annual payment to the beneficiary of an annuity trust is a specified dollar amount determined at the time the trust is established, which remains unchanged thereafter.

D. Charitable Gift Annuity

It is important to understand that a gift annuity is not a trust obligation but simply a contractual agreement on the part of the institution to pay the annuitant a specific annual dollar amount according to the schedule designated in the agreement. It is thus a general obligation of the institution. The policy of each institution will govern whether the donor's gift is to be established as a specific invested fund for supporting the annual annuity payments or whether the gift is to be added to the expendable funds of the institution with the annual annuity payments then to be made from general institutional funds. It is advisable, however, to maintain an institutional reserve in order to guarantee payment of all contracted gift annuities. The insurance laws of some states require a specified reserve for this purpose. Some institutions reinsure their annuity obligations with commercial companies.

The important function of the business office with respect to the gift annuity is to make the specified annuity payments on time and to keep the record

of payments. In some states, insurance laws require the filing of gift annuities with the Insurance Commissioner and periodic reports. Each institution utilizing the gift annuity should determine whether there are any such requirements under state law.

IRS Form 1099 is used to report taxable annuity payments to each annuitant. Copy B of this form should be transmitted to the annuitant on or before February 28 of the year following payment. Form 1096, summarizing all payments to those receiving 1099's, must be prepared and filed with the Internal Revenue Service Center designated in the Form instructions on or before February 28 of the year following the payments. Copy A of all Form 1099's are to be attached to Form 1096.

E. General

Upon the death of the last surviving beneficiary of each charitable remainder trust, the business office must terminate the trust (unitrusts and annuity trusts) in the manner specified in the trust agreement, or sever the appropriate portion of assets from the pooled fund at the time and in the manner specified in the Declaration of Trust. The business office will then be responsible to see that the assets so released are added to the general institutional funds in the manner and for the purpose designated by the donor in the trust agreement.

The policy of each institution will govern whether or not charitable remainder funds which the institution holds as trustee are to be reported in the institution's Financial Report. It is important to understand, however, that until the trust relationship ends, a life income fund is not an asset of the institution and is being held only in a fiduciary capacity. If life income trusts are reported in the Financial Report, the fact that they are being held in fiduciary capacity and are not assets of the institution should be made clear either by segregation or by footnote.

pooled Income Fund

DEFINITION OF A POOLED INCOME FUND

A trust defined in Section 642(c) (5) of the Internal Revenue Code, maintained by a qualified charitable organization, which receives irrevocable gifts of money and/or securities and commingles such gifts with the gifts of other donors who have made similar transfers for the purpose of investment, administration and income distribution. Each donor retains a life income interest in his gift to the pool for himself and/or one or more named beneficiaries who must be living at the time the gift is made.

Each beneficiary of a gift to the pool is entitled to his/her pro rata share of the overall investment income of the pool each year. Yield from a pool is entirely ordinary income; the pool is prohibited from making any distributions of capital or corpus. Upon the death of the last surviving beneficiary of an income interest, the assets representing that interest are severed from the pool and turned over irrevocably to the charitable organization maintaining the pool for its general charitable purpose or for the specific purpose designated by the donor when the gift is made.

POOLED INCOME FUND INVESTMENT CONSIDERATIONS

The statute and regulations governing the operation of pooled life income funds specifically prohibit:

1. investment in tax-exempt securities
2. the retention of excess business holdings as defined in Code Section 4943(c)
3. investment which jeopardizes a fund's exempt purposes. See Reg. 53.4944-1, wherein it is stated that while no category of investments will be considered to jeopardize exempt purposes per se, the following types or methods of investment will be closely scrutinized:

- (A) trading in securities on margin
- (B) trading in commodity futures
- (C) investments in working interests in oil or gas wells
- (D) the purchase of "puts" and "calls," and "straddles"
- (E) the purchase of warrants
- (F) selling short

A trustee of a pooled life income fund should scrupulously avoid such investments or investment methods. Trustees of pooled income funds should also bear in mind that short-term gains of a pool are taxable to the pool; the only deductions available are those for distributions of investment income to beneficiaries, the permanent set-aside of long-term capital gain, and administrative expenses. Hence, short-term gains should be avoided except in the most extraordinary circumstances.

With the exceptions noted, there are no Internal Revenue Code restrictions on the investments of a pooled life income fund, but provisions of local law governing the conduct of trustees may impose additional investment restrictions and each institution should consult legal counsel to ascertain the precise nature and extent of its fiduciary duty as an investor.

Regardless of legal restrictions, the basic characteristics of the pooled income fund impose certain limits on investment strategy. Because pool participants may receive only their pro rata share of the investment income earned by the pool's assets, it follows that a significant proportion of these assets must be income-producing. Moreover, every effort should be made to achieve a stable rate of return commensurate with the pool's stated income objective in order not to frustrate donor expectations and in order to avoid wide variations in charitable remainder factors from year to year. Beyond these minimal requirements, however, each institution has considerable latitude in defining investment objectives for its pooled fund (or funds).

Many pooled income funds currently in existence have stated objectives similar to those of so-called "balanced" mutual funds, aiming at a rate of payout roughly comparable to that which can be earned on a savings account, but affording some opportunity for modest capital and income growth as well. Such funds are usually invested in a combination of high-quality equity issues and fixed-income securities, though in periods of uncertainty in the stock market, the trustee may take a more defensive position with the preservation of capital becoming his primary objective. A fund of this type generally proves to be most attractive to younger donors for whom some element of long-term income growth is important.

Other pooled income funds aim at a significantly higher yield and are invested heavily in high-quality bonds and other high-yielding securities. Though capital appreciation in such a fund is not impossible (and indeed some element of appreciation can be built in if discount bonds are used as an investment vehicle), the emphasis is clearly on a high and stable rate of return. Such funds are favored by older donors whose need for current income takes precedence over any concern about long-term growth of income.

One institutional advantage of a high-yield pool is the fact that it can and does largely replace the need for individual high-yield net income unitrusts except in unusual circumstances (for example, where the gift property is restricted stock or where the gift property is non-income producing and temporarily unmarketable). High-yield net income unitrusts are cumbersome to administer and usually do not afford sufficient investment diversification to protect adequately the interests of either the life beneficiaries or the remainderman. Any institution which finds substantial donor interest in high yield would be well advised to establish a high-yield pooled life income fund.

Pooled income funds are particularly useful as an investment vehicle for smaller gifts because the marginal cost of administration is very low once the pool has been set up. Also, combining a number of relatively modest gifts permits much greater investment diversification and flexibility than for a series of separately invested trusts.

pooled Income Fund
Regulations And Tables G(1) (2)

Rules and Regulations

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service,
Department of the Treasury

SUBCHAPTER A—INCOME TAXES

[T.D. 7105]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Definition of Pooled Income Fund

On July 17, 1970, there was published in the FEDERAL REGISTER (35 F.R. 11476) a notice of proposed rule making with respect to amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 642(c) (5) of the Internal Revenue Code of 1954, relating to the definition of pooled income fund, as added by section 201(b) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 558). After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the amendment to the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.642(c)-5, as set forth in paragraph 2 of notice of proposed rule making, is changed by revising paragraphs (a), (b), and (c).

PAR. 2. Section 1.642(c)-6, as set forth in paragraph 2 to the notice of proposed rule making, is changed by revising paragraphs (a), (b), (c), and so much of paragraph (d)(3) as precedes the tables therein.

PAR. 3. Section 1.642(c)-7, as set forth in paragraph 2 to the notice of proposed rule making, is changed by revising paragraphs (a), (b), (c)(1), and (d).

(Sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: March 29, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary
of the Treasury.

PARAGRAPH 1. Section 1.642(c) is amended by revising section 642(c) and by adding a historical note, as follows:

§ 1.642(c) Statutory provisions; estates and trusts; special rules for credits and deductions; charitable contributions deduction.

Sec. 642. Special rules for credits and deductions.

(c) Deduction for amounts paid or permanently set aside for a charitable purpose—(1) General rule. In the case of an estate or trust (other than [sic] a trust meeting the specifications of subpart B), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a), relating to deduc-

tion for charitable, etc., contributions and gifts) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c) (2) (A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

(2) Amounts permanently set aside. In the case of an estate and in the case of a trust (other than a trust meeting the specifications of subpart B) required by the terms of its governing instrument to set aside amounts which was—

(A) Created on or before October 9, 1969, if—

(i) An irrevocable remainder interest is transferred to or for the use of an organization described in section 170(c), or

(ii) The grantor is at all times after October 9, 1969, under a mental disability to change the terms of the trust; or

(B) Established by a will executed on or before October 9, 1969, if—

(i) The testator dies before October 9, 1972, without having republished the will after October 9, 1969, by codicil or otherwise,

(ii) The testator at no time after October 9, 1969, had the right to change the portions of the will which pertain to the trust, or

(iii) The will is not republished by codicil or otherwise before October 9, 1972, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise,

there shall also be allowed as a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit. In the case of a trust, the preceding sentence shall apply only to gross income earned with respect to amounts transferred to the trust before October 9, 1969, or transferred under a will to which subparagraph (B) applies.

(3) Pooled income funds. In the case of a pooled income fund (as defined in paragraph (5)), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income attributable to gain from the sale of a capital asset held for more than 6 months, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c).

(4) Adjustments. To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 6 months, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (re-

lating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).

(5) Definition of pooled income fund. For purposes of paragraph (3), a pooled income fund is a trust—

(A) To which each donor transfers property, contributing an irrevocable remainder interest in such property to or for the use of an organization described in section 170 (b)(1)(A) (other than in clauses (vii) or (viii)), and retaining an income interest for the life of one or more beneficiaries (living at the time of such transfer).

(B) In which the property transferred by each donor is commingled with property transferred by other donors who have made or make similar transfers.

(C) Which cannot have investments in securities which are exempt from the taxes imposed by this subtitle.

(D) Which includes only amounts received from transfers which meet the requirements of this paragraph.

(E) Which is maintained by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and

(F) From which each beneficiary of an income interest receives income, for each year for which he is entitled to receive the income interest referred to in subparagraph (A), determined by the rate of return earned by the trust for such year.

For purposes of determining the amount of any charitable contribution allowable by reason of a transfer of property to a pooled fund, the value of the income interest shall be determined on the basis of the highest rate of return earned by the fund for any of the 3 taxable years immediately preceding the taxable year of the fund in which the transfer is made. In the case of funds in existence less than 3 taxable years preceding the taxable year of the fund in which a transfer is made, the rate of return shall be deemed to be 6 percent per annum, except that the Secretary or his delegate may prescribe a different rate of return.

(6) Taxable private foundations. In the case of a private foundation which is not exempt from taxation under section 501(a) for the taxable year, the provisions of this subsection shall not apply and the provisions of section 170 shall apply.

[Sec. 642(c) as amended by sec. 201(b), Tax Reform Act 1969 (83 Stat. 558)]

PAR. 2. Immediately after § 1.642(c)-4 the following new sections are inserted:

§ 1.642(c)-5 Definition of pooled income fund.

(a) In general—(1) Application of provisions. Section 642(c) (5) prescribes certain rules for the valuation of contributions involving transfers to certain funds described in that section as pooled income funds. This section sets forth the requirements for qualifying as a pooled income fund and provides for the manner of allocating the income of the fund to the beneficiaries. Section 1.642(c)-6 provides for the valuation of a remainder interest in property transferred to a

pooled income fund. § 1.642(c)-7 provides transitional rules under which certain funds may be amended so as to qualify as pooled income funds in respect to transfers of property occurring after July 31, 1969.

(2) *Tax status of fund and its beneficiaries.* Notwithstanding any other provision of this chapter, a fund which meets the requirements of a pooled income fund, as defined in section 642(c)(5) and paragraph (b) of this section, shall not be treated as an association within the meaning of section 7701(a)(3). Such a fund, which need not be a trust under local law, and its beneficiaries shall be taxable under part I, subchapter J, chapter 1 of the Code, but the provisions of subpart E (relating to grantors and others treated as substantial owners) of such part shall not apply to such fund.

(3) *Recognition of gain or loss on transfer to fund.* No gain or loss shall be recognized to the donor on the transfer of property to a pooled income fund. In such case, the fund's basis and holding period with respect to property transferred to the fund by a donor shall be determined as provided in sections 1015(b) and 1223(2). If, however, a donor transfers property to a pooled income fund and, in addition to creating or retaining a life income interest therein, receives property from the fund, or transfers property to the fund which is subject to an indebtedness, this subparagraph shall not apply to the gain realized by reason of (i) the receipt of such property or (ii) the amount of such indebtedness, whether or not assumed by the pooled income fund, which is required to be treated as an amount realized on the transfer. For applicability of the bargain sale rules, see section 1011(b) and the regulations thereunder.

(4) *Charitable contributions deduction.* A charitable contributions deduction for the value of the remainder interest, as determined under § 1.642(c)-6, may be allowed under section 170, 2055, 2106, or 2522, where there is a transfer of property to a pooled income fund. For a special rule relating to the reduction of the amount of a charitable contribution of certain ordinary income property or capital gain property, see section 170(e)(1)(A) or (B)(i) and the regulations thereunder.

(5) *Definitions.* For purposes of this section, § 1.642(c)-6, and § 1.642(c)-7—

(i) The term "income" has the same meaning as it does under section 643(b) and the regulations thereunder.

(ii) The term "donor" includes a decedent who makes a testamentary transfer of property to a pooled income fund.

(iii) The term "governing instrument" means either the governing plan under which the pooled income fund is established and administered or the instrument of transfer, as the context requires.

(iv) The term "public charity" means an organization described in clause (i) to (vi) or section 170(b)(1)(A). If an organization is described in clause (i) to (vi) of section 170(b)(1)(A) and is

also described in clause (viii) of such section, it shall be treated as a public charity.

(v) The term "fair market value", when used with respect to property, means its value in excess of the indebtedness or charges against such property.

(vi) The term "determination date" means each day within the taxable year of a pooled income fund on which a valuation is made of the property in the fund. The property in the fund shall be valued on the first day of the taxable year of the fund and on at least 3 other days within the taxable year. The period between any two consecutive determination dates within the taxable year shall not be greater than 3 calendar months. In the case of a taxable year of less than 12 months, the property in the fund shall be valued on the first day of such taxable year and on such other days within such year as occur at successive intervals of no greater than 3 calendar months.

(6) *Cross references.* (i) See section 4947(a)(2) and section 4947(b)(3)(B) for the application to pooled income funds of the provisions relating to private foundations and section 508(e) for rules relating to provisions required in the governing instrument prohibiting certain activities specified in section 4947(a)(2).

(ii) For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and the regulations thereunder.

(b) *Requirements for qualification as a pooled income fund.* A pooled income fund to which this section applies must satisfy all of the following requirements:

(1) *Contribution of remainder interest to charity.* Each donor must transfer property to the fund and contribute an irrevocable remainder interest in such property to or for the use of a public charity, retaining for himself, or creating for another beneficiary or beneficiaries, a life income interest in the transferred property. A contingent remainder interest shall not be treated as an irrevocable remainder interest for purposes of this subparagraph.

(2) *Creation of life income interest.* Each donor must retain for himself for life an income interest in the property transferred to such fund, or create an income interest in such property for the life of one or more beneficiaries, each of whom must be living at the time of the transfer of the property to the fund by the donor. The term "one or more beneficiaries" includes those members of a named class who are alive and can be ascertained at the time of the transfer of the property to the fund. In the event more than one beneficiary of the income interest is designated, such beneficiaries may enjoy their shares of income concurrently, consecutively, or both concurrently and consecutively. The donor may retain the power exercisable only by will to revoke or terminate the income interest of any designated beneficiary other than the public charity. The governing instrument must specify at the time of

the transfer the particular beneficiary or beneficiaries to whom the income is payable and the share of income distributable to each person so specified. The public charity to or for the use of which the remainder interest is contributed may also be designated as one of the beneficiaries of an income interest. The donor need not retain or create a life interest in all the income from the property transferred to the fund provided any income not payable under the terms of the governing instrument to an income beneficiary is contributed to, and within the taxable year in which it is received is paid to, the same public charity to or for the use of which the remainder interest is contributed. No charitable contributions deduction shall be allowed to the donor for the value of such income interest of the public charity or for the amount of any such income paid to such organization.

(3) *Commingling of property required.* The property transferred to the fund by each donor must be commingled with, and invested or reinvested with, other property transferred to the fund by other donors satisfying the requirements of subparagraphs (1) and (2) of this paragraph. The governing instrument of the pooled income fund must contain a provision requiring compliance with the preceding sentence. The public charity to or for the use of which the remainder interest is contributed may maintain more than one pooled income fund, provided that each such fund is maintained by the organization and is not a device to permit a group of donors to create a fund which may be subject to their manipulation. The fund must not include property transferred under arrangements other than those specified in section 642(c)(5) and this paragraph. However, a fund shall not be disqualified as a pooled income fund under this paragraph because any portion of its properties is invested or reinvested jointly with other properties, not a part of the pooled income fund, which are held by, or for the use of, the public charity which maintains the fund, as for example, with securities in the general endowment fund of the public charity to or for the use of which the remainder interest is contributed. Where such joint investment or reinvestment of properties occurs, records must be maintained which sufficiently identify the portion of the total fund which is owned by the pooled income fund and the income earned by, and attributable to, such portion. Such a joint investment or reinvestment of properties shall not be treated as an association or partnership for purposes of the Code. A bank which serves as trustee of more than one pooled income fund may maintain a common trust fund to which section 584 applies for the collective investment and reinvestment of moneys of such funds.

(4) *Prohibition against exempt securities.* The property transferred to the fund by any donor must not include any security the income from which is exempt from tax under subtitle A of the Code, and the fund must not invest in such

securities. The governing instrument of the fund must contain specific prohibitions against accepting or investing in such securities.

(5) *Maintenance by charitable organization required.* The fund must be maintained by the same public charity to or for the use of which the irrevocable remainder interest is contributed. The requirement of maintenance will be satisfied where the public charity exercises control directly or indirectly over the fund. For example, this requirement of control shall ordinarily be met when the public charity has the power to remove the trustee or trustees of the fund and designate a new trustee or trustees. A national organization which carries out its purposes through local organizations, chapters, or auxiliary bodies with which it has an identity of aims and purposes may maintain a pooled income fund (otherwise satisfying the requirements of this paragraph) in which one or more local organizations, chapters, or auxiliary bodies which are public charities have been named as recipients of the remainder interests. For example, a national church body may maintain a pooled income fund where donors have transferred property to such fund and contributed an irrevocable remainder which are ordinarily exercised by a interest therein to or for the use of various local churches or educational institutions of such body. The fact that such local organizations or chapters have been separately incorporated from the national organization is immaterial.

(6) *Prohibition against donor or beneficiary serving as trustee.* The fund must not have, and the governing instrument must prohibit the fund from having, as a trustee a donor to the fund or a beneficiary (other than the public charity to or for the use of which the remainder interest is contributed) of an income interest in any property transferred to such fund. Thus, if a donor or beneficiary (other than such public charity) directly or indirectly has general responsibilities with respect to the fund trustee, such fund does not meet the requirements of section 642(c) (5) and this paragraph. The fact that a donor of property to the fund, or a beneficiary of the fund, is a trustee, officer, director, or other official of the public charity to or for the use of which the remainder interest is contributed ordinarily will not prevent the fund from meeting the requirements of section 642(c) (5) and this paragraph.

(7) *Income of beneficiary to be based on rate of return of fund.* Each beneficiary entitled to income of any taxable year of the fund must receive such income in an amount determined by the rate of return earned by the fund for such taxable year with respect to his income interest, computed as provided in paragraph (c) of this section. The governing instrument of the fund shall direct the trustee to distribute income currently or within the first 65 days following the close of the taxable year in which the income is earned. Any such payment made after the close of the taxable year

shall be treated as paid on the last day of the taxable year. A statement shall be attached to the return of the pooled income fund indicating the date and amount of such payments after the close of the taxable year. Subject to the provisions of part I, subchapter J, chapter 1 of the Code, the beneficiary shall include in his gross income all amounts properly paid, credited, or required to be distributed to the beneficiary during the taxable year or years of the fund ending within or with his taxable year. The governing instrument shall provide that the income interest of any designated beneficiary shall either terminate with the last regular payment which was made before the death of the beneficiary or be prorated to the date of his death.

(8) *Termination of life income interest.* Upon the termination of the income interest retained or created by any donor, the trustee shall sever from the fund an amount equal to the value of the remainder interest in the property upon which the income interest is based. The value of the remainder interest for such purpose shall be its value as of the determination date next succeeding the termination of the income interest. The amount so severed from the fund must either be paid to, or retained for the use of, the designated public charity, as provided in the governing instrument. However, see subparagraph (3) of this paragraph for rules relating to commingling of property.

(c) *Allocation of income to beneficiary—(1) In general.* Every income interest retained or created in property transferred to a pooled income fund shall be assigned a proportionate share of the annual income earned by the fund, such share, or unit of participation, being based on the fair market value of such property on the date of transfer, as provided in this paragraph.

(2) *Units of participation—(i) Unit plan.* (a) On each transfer of property by a donor to a pooled income fund, one or more units of participation in the fund shall be assigned to the beneficiary or beneficiaries of the income interest retained or created in such property, the number of units of participation being equal to the number obtained by dividing the fair market value of the property by the fair market value of a unit in the fund at the time of the transfer.

(b) The fair market value of a unit in the fund at the time of the transfer shall be determined by dividing the fair market value of all property in the fund at such time by the number of units then in the fund. The initial fair market value of a unit in a pooled income fund shall be the fair market value of the property transferred to the fund divided by the number of units assigned to the income interest in that property. The value of each unit of participation will fluctuate with each new transfer of property to the fund in relation to the appreciation or depreciation in the fair market value of the property in the fund, but all units in the fund will always have equal value.

(c) The share of income allocated to each unit of participation shall be

determined by dividing the income of the fund for the taxable year by the outstanding number of units in the fund at the end of such year, except that, consistently with paragraph (b) (7) of this section, income shall be allocated to units outstanding during only part of such year by taking into consideration the period of time such units are outstanding. For this purpose the actual income of such part of the taxable year, or a prorated portion of the annual income, may be used, after making such adjustments as are reasonably necessary to reflect fluctuations during the year in the fair market value of the property in the fund.

(ii) *Other plans.* The governing instrument of the fund may provide any other reasonable method not described in subdivision (i) of this subparagraph for assigning units of participation in the fund and allocating income to such units which reaches a result reasonably consistent with the provisions of such subdivision.

(iii) *Transfers between determination dates.* For purposes of subdivisions (i) and (ii) of this subparagraph, if a transfer of property to the fund by a donor occurs on other than a determination date, the number of units of participation assigned to the income interest in such property may be determined by using the fair market value of the property in the fund on the determination date immediately preceding the date of transfer (determined without regard to the property so transferred), subject, however, to appropriate adjustments on the next succeeding determination date. Such adjustments may be made by any reasonable method, including the use of a method whereby the average fair market value of the property in the fund at the time of the transfer is obtained by reference to the fair market values of the property in the fund on the determination dates immediately preceding and succeeding the date of transfer. The application of this subdivision may be illustrated by the following example:

Example. The determination dates of a pooled income fund are the first day of each calendar month. On April 1, 1971, the fair market value of the property in the fund is \$100,000, at which time 1,000 units of participation are outstanding with a value of \$100 each. On April 15, 1971, B transfers property with a fair market value of \$50,000 to the fund, retaining for himself for life an income interest in such property. On May 1, 1971, the fair market value of the property in the fund, including the property transferred by B, is \$160,000. The average of the fair market values of the property in the fund (excluding the property transferred by B) on April 1 and May 1, 1971, is \$105,000 $(\$100,000 + [\$160,000 - \$100,000] \div 2)$. Accordingly, the fair market value of a unit of participation in the fund on April 15, 1971, at the time of B's transfer is \$1,050 $(\$105,000 / 1,000 \text{ units})$, and B is assigned 467 units of participation in the fund $(\$50,000 / \$1,050)$.

(3) *Special rule for partial allocation of income to charity.* Notwithstanding subparagraph (2) of this paragraph, the governing instrument may provide that a unit of participation is entitled to

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share in the income of the fund in a lesser amount than would otherwise be determined under such subparagraph, provided that the income otherwise allocable to the unit under such subparagraph is paid within the taxable year in which it is received to the public charity to or for the use of which the remainder interest is contributed under the governing instrument.

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). On July 1, 1970, A and B transfer separate properties with a fair market value of \$20,000 and \$10,000, respectively, to a newly created pooled income fund which is maintained by Y University and uses as its taxable year the fiscal year ending June 30. A and B each retain in themselves for life an income interest in such property, the remainder interest being contributed to Y University. The pooled income fund assigns an initial value of \$100 to each unit of participation in the fund, and under the governing instruments A receives 200 units, and B receives 100 units, in the fund. On October 1, 1970, which is a determination date, C transfers property to the fund with a fair market value of \$12,000, retaining in himself for life an income interest in such property and contributing the remainder interest to Y University. The fair market value of the property in the fund at the time of C's transfer is \$36,000. The fair market value of A's and B's units at the time of such transfer is \$120 each (\$36,000/300). By reason of his transfer of property C is assigned 100 units of participation in the fund (\$12,000/\$120).

Example (2). Assume that the pooled income fund in example (1) earns \$2,600 for its taxable year ending June 30, 1971, and there are no further contributions of property to the fund in such year. Further assume \$300 is earned in the first quarter ending September 30, 1970. Therefore, the fund earns \$1 per unit for the first quarter (\$300 divided by 300 units outstanding) and \$5.75 per unit for the remainder of the taxable year (\$2,600 - \$300) divided by 400 units outstanding. If the fund distributes its income for the year based on its actual earnings per quarter, the income must be distributed as follows:

Beneficiary	Share of income
A	\$1,350 $[(200 \times \$1) + (200 \times \$5.75)]$.
B	\$675 $[(100 \times \$1) + (100 \times \$5.75)]$.
C	\$675 $(100 \times \$5.75)$.

Example (3). (a) On July 1, 1970, A and B transfer separate properties with a fair market value of \$10,000 and \$20,000, respectively, to a newly created pooled income fund which is maintained by X University and uses as its taxable year the fiscal year ending June 30. A and B each retain in themselves an income interest for life in such property, the remainder interest being contributed to X University. The governing instrument provides that each unit of participation in the fund shall have a value of not more than its initial fair market value; the instrument also provides that the income allocable to appreciation in the fair market value of such unit (to the extent in excess of its initial fair market value) at the end of each quarter of the fiscal year is On October 1, 1970, which is a determination date, C contributes to the fund property with a fair market value of \$60,000 and retains in himself an income interest for life in such property, the remainder interest being contributed to X University. The ini-

tial fair market value of the units assigned to A, B, and C is \$100. A, B, and C's units of participation are as follows:

Beneficiary	Units of participation
A	100 (\$10,000 divided by \$100).
B	200 (\$20,000 divided by \$100).
C	600 (\$60,000 divided by \$100).

(b) The fair market value of the property in the fund at the time of C's contribution is \$40,000. Assuming the fair market value of the property in the fund is \$100,000 on December 31, 1970, and that the income of the fund for the second quarter ending December 31, 1970, is \$2,000, the income is shared by the income beneficiaries and X University as follows:

Beneficiary	Allocation of income
A, B, and C	90% (\$90,000 divided by \$100,000).
X University	10% (\$10,000 divided by \$100,000).

(c) For the quarter ending December 31, 1970, each unit of participation is allocated \$2 (90 percent $\times$ \$2,000 divided by 900) of the income earned for that quarter. A, B, C, and X University share in the income as follows:

Beneficiary	Share of income
A	\$200 $(100 \times \$2)$.
B	\$400 $(200 \times \$2)$.
C	\$1,200 $(600 \times \$2)$.
X University	\$200 $(10\% \times \$2,000)$.

(d) *Effective date.* Section 642(c)(5) and this section apply to transfers in trust made after July 31, 1969.

§ 1.642(r)-6 Valuation of a remainder interest in property transferred to a pooled income fund.

(a) *In general.* (1) For purposes of sections 170, 2055, 2106, and 2522 the fair market value of a remainder interest in property transferred after July 31, 1969, to a pooled income fund to which § 1.642(c)-5 applies is its present value determined under this section. The present value of the remainder interest at the time of the transfer of property to the fund shall be determined by computing the present value at such time of the life income interest in the transferred property (as determined under paragraph (b) of this section) and subtracting such value from the fair market value of the transferred property on the appropriate valuation date. The fact that the income beneficiary of the income interest in such property may not receive the last income payment, as provided in paragraph (b)(7) of § 1.642(c)-5, shall not be taken into account for purposes of determining the present value of the life income interest. For purposes of this section, the term "appropriate valuation date" means the date on which property is transferred to the fund by the donor except that, for purposes of section 2055 or 2106, it means the alternate valuation date if it is elected in accordance with section 2032 and the regulations thereunder.

(2) The method for determining the present value of a remainder interest in property transferred to a pooled income fund where such value is dependent on the termination of one life is set forth

in paragraph (d) of this section. If the computation of the value of the remainder interest requires the use of a factor which is not provided in paragraph (d) of this section, the Commissioner may, if conditions permit, supply the factor upon request. The request must be accompanied by a statement of the pooled income fund's yearly rate of return and of the date of birth and sex of each individual the duration of whose life may affect the value of the remainder interest and by copies of the relevant instruments. If the Commissioner furnishes the factor, a copy of the letter supplying the factor shall be attached to the tax return in which the deduction is claimed. If the Commissioner does not furnish the factor, the taxpayer must furnish a factor computed in accordance with the principles set forth in this section. Many special factors involving the valuation of an income interest dependent upon the continuation or termination of more than one life may be found in, or computed with the use of the tables contained in, the publications entitled "Actuarial Values I: Valuation of Last Survivor Charitable Remainders" and "Actuarial Values II: Factors at 6 Percent Involving One and Two Lives." These publications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Any claim for deduction in any return for the value of a remainder interest in property transferred to a pooled income fund must be supported by a statement attached to the return showing the computation of the present value of such interest.

(b) *Present value of life income interest.* The present value of the life income interest in property transferred to a pooled income fund shall be computed on the basis of—

(1) Life contingencies determined, as to each male and female life involved, from the values of l_x that are set forth in columns (2) and (3), respectively, of table LN of paragraph (f) of § 20.2031-10 of this chapter (Estate Tax Regulations), and

(2) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. For purposes of this subparagraph, the first taxable year of a pooled income fund shall be considered a taxable year even though such taxable year consists of less than 12 months. However, appropriate adjustments shall be made to annualize the rate of return earned by the fund for such period. Where it appears from the facts and circumstances that the highest yearly rate of return for the 3 taxable years immediately preceding the taxable year in which the transfer of property is made has been purposely arranged to be substantially incommensurate with the reasonably anticipated earnings of the fund with the objective of obtaining an excessive charitable contributions deduction, such rate of return shall not be used. In such a case the highest yearly

rate of return of the fund shall be determined by treating the fund as a pooled income fund which has been in existence for less than 3 preceding taxable years. If a pooled income fund has been in existence less than 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made, the highest yearly rate of return shall be deemed to be 6 percent. For purposes of this subparagraph the yearly rate of return of a pooled income fund shall be determined as provided in paragraph (c) of this section unless the highest yearly rate of return is deemed to be 6 percent.

(c) *Computation of pooled income fund's yearly rate of return.* (1) For purposes of paragraph (b) of this section, the yearly rate of return earned by a pooled income fund for a taxable year shall be that percentage obtained by dividing the amount of income earned by the pooled income fund for such taxable year by an amount equal to (i) the average fair market value for such taxable year of the property in such fund less (ii) the corrective term adjustment.

(2) The average fair market value of the property in a pooled income fund for a taxable year shall be the sum of the amounts of the fair market value of all property held by the pooled income fund on each determination date, as defined in paragraph (a) (5) (vi) of § 1.642(c)-5, of such taxable year divided by the number of determination dates in such taxable year. For such purposes the fair market value of property held by the fund shall be determined without including any income earned by the fund.

(3) (i) The corrective term adjustment shall be the sum of the products obtained by multiplying each income payment made by the pooled income fund within its taxable year by the percentage set forth in column (2) of the following table opposite the period within such year, set forth in column (1), which includes the date on which that payment is made:

(1) Payment period	(2) Percentage of payment
Last week of 4th quarter	0
Balance of 4th quarter	25
Last week of 3d quarter	25
Balance of 3d quarter	50
Last week of 2d quarter	50
Balance of 2d quarter	75
Last week of 1st quarter	75
Balance of 1st quarter	100

(ii) If the taxable year of the fund consists of less than 12 months, the corrective term adjustment shall be the sum of the products obtained by multiplying each income payment made by the pooled income fund within such taxable year by the percentage obtained by subtracting from 1 a fraction the numerator of which is the number of days from the first day of such taxable year to the date of such income payment and the denominator of which is 365.

(4) A pooled income fund's method of calculating its yearly rate of return must

be supported by a full statement attached to the income tax return of the pooled income fund for each taxable year.

(5) The application of this paragraph may be illustrated by the following examples:

Example (1). (a) The pooled income fund maintained by W University has established determination dates on the first day of each calendar quarter. The pooled income fund is on a calendar-year basis. The pooled income fund earned \$5,000 of income during 1971. The fair market value of its property (determined without including any income earned by the fund), and the income paid out, on the first day of each calendar quarter in 1971 are as follows:

Date	Fair market value of property	Income payment
Jan. 1	\$100,000	\$1,200
Apr. 1	105,000	1,200
July 1	95,000	1,200
Oct. 1	100,000	1,400
	400,000	5,000

(b) The average fair market value of the property in the fund for 1971 is \$100,000 (\$400,000, divided by 4).

(c) The corrective term adjustment for 1971 is \$3,050, determined by applying the percentages obtained in column (2) of the table in subparagraph (3) of this paragraph:

Multiplication	Product
100% × \$1,200	\$1,200
75% × \$1,200	900
50% × \$1,200	600
25% × \$1,400	350
Sum of products	3,050

(d) The pooled income fund's yearly rate of return for 1971 is 5.157 percent, determined as follows:

$$\frac{\$5,000}{\$100,000 - \$3,050} = 0.05157$$

Example (2). (a) The pooled income fund maintained by X University has established determination dates on the first day of each calendar quarter. The pooled income fund is on a calendar-year basis. The pooled income fund earned \$5,000 of income during 1971 and paid out \$3,000 on December 15, 1971, and \$2,000 on January 15, 1972, the last amount being treated under paragraph (b) (7) of § 1.642(c)-5 as paid on December 31, 1971. The fair market value of its property (determined without including any income earned by the fund) on the determination dates in 1971 and the income paid out during 1971 are as follows:

Date	Fair market value of property	Income payment
Jan. 1	\$125,000	
Apr. 1	125,000	
July 1	75,000	
Oct. 1	75,000	
Dec. 15		\$3,000
Dec. 31		2,000
	400,000	5,000

(b) The average fair market value of the property in the fund for 1971 is \$100,000 (\$400,000 divided by 4).

(c) The corrective term adjustment for 1971 is \$750, determined by applying the percentages obtained in column (2) of the table in subparagraph (3) of this paragraph:

Multiplication	Product
0% × \$2,000	\$0
25% × \$3,000	750

Sum of products..... 750

(d) The pooled income fund's yearly rate of return for 1971 is 5.038 percent, determined as follows:

$$\frac{\$5,000}{\$100,000 - \$750} = 0.05038$$

(d) *Present value of remainder interest dependent on the termination of one life—(1) In general.* The present value under this section of a remainder interest which is dependent on the termination of the life of one individual shall be determined under this paragraph. The present value of such a remainder interest shall be computed by the use of Table G(1) or Table G(2) in subparagraph (3) of this paragraph. Table G(1) is to be used when the individual upon whose life the present value of the remainder interest is based is a male, and Table G(2) is to be used when the individual upon whose life the present value of the remainder interest is based is a female whose age is less than 95 years. In the case of a female whose age is more than 94 years, Table G(1) is to be used. The factors in these tables have been obtained by subtracting from 1 the factor for determining the present value of the life income interest. For purposes of the computations under this section, the age of an individual is to be taken as the age of that individual at his nearest birthday.

(2) *Computation of value of remainder interest.* The factor which is used in determining the present value of the remainder interest is the factor under the appropriate yearly rate of return in column (2) of Table G(1) or Table G(2) opposite the number in column (1) which corresponds to the age of the individual upon whose life the value of the remainder interest is based. If the yearly rate of return is a percentage which is between yearly rates of return for which factors are provided in Table G(1) or Table G(2), a linear interpolation must be made. The present value of the remainder interest is determined by multiplying, by the factor determined under this subparagraph, the fair market value on the appropriate valuation date. If the yearly rate of return is below 2.2 percent or above 8 percent, see paragraph (a) (2) of this section. The application of this subparagraph may be illustrated by the following example:

Example. M, a male who will be 50 years old on April 15, 1970, transfers \$100,000 to a pooled income fund on January 1, 1970, and retains in himself a life income interest in such property. The highest yearly rate of return earned by the fund for its 3 preceding taxable years is 4.717 percent. In table G(1) the figure in column (2) opposite 50 years under 4.6 percent is 0.40087 and under 4.8 percent is 0.38764. The present value of the remainder interest is \$39,313, computed as follows:

Factor at 4.6 percent for male aged 50	0.40087
Factor at 4.8 percent for male aged 50	.38764
Difference	.01323

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Interpolation adjustment:

$$\frac{4.717\% - 4.6\%}{.2\%} \times 0.01323 \\ = 0.00774$$

Factor at 4.6 percent for male aged

50 0.40087

Less: Interpolation adjustment 0.00774

Interpolated factor 39313

Present value of remainder interest

(\$100,000 × 0.39313) \$39,313

(3) **Actuarial tables.** The following tables, which show the factor obtained by subtracting from 1 the factor for determining the present value of the life income interest dependent on the termination of the life of one individual, shall be used in the application of the provisions of this section:

TABLE G(1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN

(1) Age	(2) Yearly rate of return				
	2.2%	2.4%	2.6%	2.8%	3%
0	.26256	.23612	.21314	.19296	.17526
1	.24606	.21976	.19485	.17389	.15586
2	.23049	.20428	.17944	.15784	.13986
3	.21573	.18952	.16468	.14258	.12460
4	.20166	.17545	.15061	.12851	.11053
5	.18828	.16207	.13723	.11513	.09715
6	.17550	.14929	.12445	.10235	.08437
7	.16332	.13711	.11227	.09017	.07219
8	.15164	.12543	.10059	.07849	.06051
9	.14046	.11425	.08941	.06731	.04933
10	.12968	.10347	.07863	.05653	.03855
11	.11930	.09309	.06825	.04615	.02817
12	.10932	.08311	.05827	.03617	.01819
13	.10004	.07383	.04899	.02689	.00891
14	.09136	.06515	.04031	.01821	.00023
15	.08328	.05707	.03223	.00953	.00000
16	.07570	.04949	.02465	.00000	.00000
17	.06862	.04241	.01757	.00000	.00000
18	.06204	.03583	.01100	.00000	.00000
19	.05596	.02975	.00491	.00000	.00000
20	.05038	.02417	.00000	.00000	.00000
21	.04530	.01909	.00000	.00000	.00000
22	.04072	.01451	.00000	.00000	.00000
23	.03664	.01043	.00000	.00000	.00000
24	.03306	.00685	.00000	.00000	.00000
25	.02998	.00327	.00000	.00000	.00000
26	.02740	.00000	.00000	.00000	.00000
27	.02522	.00000	.00000	.00000	.00000
28	.02344	.00000	.00000	.00000	.00000
29	.02206	.00000	.00000	.00000	.00000
30	.02108	.00000	.00000	.00000	.00000
31	.02030	.00000	.00000	.00000	.00000
32	.01962	.00000	.00000	.00000	.00000
33	.01904	.00000	.00000	.00000	.00000
34	.01856	.00000	.00000	.00000	.00000
35	.01818	.00000	.00000	.00000	.00000
36	.01780	.00000	.00000	.00000	.00000
37	.01742	.00000	.00000	.00000	.00000
38	.01704	.00000	.00000	.00000	.00000
39	.01666	.00000	.00000	.00000	.00000
40	.01628	.00000	.00000	.00000	.00000
41	.01590	.00000	.00000	.00000	.00000
42	.01552	.00000	.00000	.00000	.00000
43	.01514	.00000	.00000	.00000	.00000
44	.01476	.00000	.00000	.00000	.00000
45	.01438	.00000	.00000	.00000	.00000
46	.01400	.00000	.00000	.00000	.00000
47	.01362	.00000	.00000	.00000	.00000
48	.01324	.00000	.00000	.00000	.00000
49	.01286	.00000	.00000	.00000	.00000
50	.01248	.00000	.00000	.00000	.00000
51	.01210	.00000	.00000	.00000	.00000
52	.01172	.00000	.00000	.00000	.00000
53	.01134	.00000	.00000	.00000	.00000
54	.01096	.00000	.00000	.00000	.00000
55	.01058	.00000	.00000	.00000	.00000
56	.01020	.00000	.00000	.00000	.00000
57	.00982	.00000	.00000	.00000	.00000
58	.00944	.00000	.00000	.00000	.00000
59	.00906	.00000	.00000	.00000	.00000
60	.00868	.00000	.00000	.00000	.00000
61	.00830	.00000	.00000	.00000	.00000
62	.00792	.00000	.00000	.00000	.00000
63	.00754	.00000	.00000	.00000	.00000
64	.00716	.00000	.00000	.00000	.00000
65	.00678	.00000	.00000	.00000	.00000
66	.00640	.00000	.00000	.00000	.00000
67	.00602	.00000	.00000	.00000	.00000
68	.00564	.00000	.00000	.00000	.00000
69	.00526	.00000	.00000	.00000	.00000
70	.00488	.00000	.00000	.00000	.00000

TABLE O (1)—Continued

(1) Age	(2) Yearly rate of return				
	2.2%	2.4%	2.6%	2.8%	3%
71	.8149	.8078	.7870	.7763	.7606
72	.8228	.8098	.7970	.7830	.7705
73	.8307	.8178	.8049	.7910	.7782
74	.8386	.8259	.8132	.8014	.7895
75	.8464	.8341	.8221	.8109	.7996
76	.8543	.8426	.8308	.8196	.8087
77	.8624	.8503	.8385	.8289	.8185
78	.8704	.8584	.8476	.8377	.8278
79	.8784	.8666	.8567	.8467	.8368
80	.8864	.8747	.8647	.8547	.8448
81	.8944	.8829	.8729	.8629	.8530
82	.9024	.8910	.8810	.8710	.8611
83	.9104	.8991	.8891	.8791	.8692
84	.9184	.9071	.8971	.8871	.8772
85	.9264	.9151	.9051	.8951	.8852
86	.9344	.9231	.9131	.9031	.8932
87	.9424	.9311	.9211	.9111	.9012
88	.9504	.9391	.9291	.9191	.9092
89	.9584	.9471	.9371	.9271	.9172
90	.9664	.9551	.9451	.9351	.9252
91	.9744	.9631	.9531	.9431	.9332
92	.9824	.9711	.9611	.9511	.9412
93	.9904	.9791	.9691	.9591	.9492
94	.9984	.9871	.9771	.9671	.9572
95	.0064	.0051	.0051	.0051	.0051
96	.0144	.0131	.0131	.0131	.0131
97	.0224	.0211	.0211	.0211	.0211
98	.0304	.0291	.0291	.0291	.0291
99	.0384	.0371	.0371	.0371	.0371
100	.0464	.0451	.0451	.0451	.0451

TABLE G (1)

(1) Age	(2) Yearly rate of return				
	3.2%	3.4%	3.6%	3.8%	4%
0	.1573	.1460	.1347	.1234	.1114
1	.1393	.1279	.1166	.1053	.0937
2	.1218	.1104	.0991	.0878	.0764
3	.1043	.0929	.0816	.0703	.0589
4	.0868	.0754	.0641	.0528	.0414
5	.0693	.0579	.0466	.0353	.0239
6	.0518	.0404	.0291	.0178	.0064
7	.0343	.0229	.0116	.0003	.0000
8	.0168	.0054	.0000	.0000	.0000
9	.0000	.0000	.0000	.0000	.0000
10	.0000	.0000	.0000	.0000	.0000
11	.0000	.0000	.0000	.0000	.0000
12	.0000	.0000	.0000	.0000	.0000
13	.0000	.0000	.0000	.0000	.0000
14	.0000	.0000	.0000	.0000	.0000
15	.0000	.0000	.0000	.0000	.0000
16	.0000	.0000	.0000	.0000	.0000
17	.0000	.0000	.0000	.0000	.0000
18	.0000	.0000	.0000	.0000	.0000
19	.0000	.0000	.0000	.0000	.0000
20	.0000	.0000	.0000	.0000	.0000
21	.0000	.0000	.0000	.0000	.0000
22	.0000	.0000	.0000	.0000	.0000
23	.0000	.0000	.0000	.0000	.0000
24	.0000	.0000	.0000	.0000	.0000
25	.0000	.0000	.0000	.0000	.0000
26	.0000	.0000	.0000	.0000	.0000
27	.0000	.0000	.0000	.0000	.0000
28	.0000	.0000	.0000	.0000	.0000
29	.0000	.0000	.0000	.0000	.0000
30	.0000	.0000	.0000	.0000	.0000
31	.0000	.0000	.0000	.0000	.0000
32	.0000	.0000	.0000	.0000	.0000
33	.0000	.0000	.0000	.0000	.0000
34	.0000	.0000	.0000	.0000	.0000
35	.0000	.0000	.0000	.0000	.0000
36	.0000	.0000	.0000	.0000	.0000
37	.0000	.0000	.0000	.0000	.0000
38	.0000	.0000	.0000	.0000	.0000
39	.0000	.0000	.0000	.0000	.0000
40	.0000	.0000	.0000	.0000	.0000
41	.0000	.0000	.0000	.0000	.0000
42	.0000	.0000	.0000	.0000	.0000
43	.0000	.0000	.0000	.0000	.0000
44	.0000	.0000	.0000	.0000	.0000
45	.0000	.0000	.0000	.0000	.0000
46	.0000	.0000	.0000	.0000	.0000
47	.0000	.0000	.0000	.0000	.0000
48	.0000	.0000	.0000	.0000	.0000
49	.0000	.0000	.0000	.0000	.0000
50	.0000	.0000	.0000	.0000	.0000
51	.0000	.0000	.0000	.0000	.0000
52	.0000	.0000	.0000	.0000	.0000
53	.0000	.0000	.0000	.0000	.0000
54	.0000	.0000	.0000	.0000	.0000
55	.0000	.0000	.0000	.0000	.0000
56	.0000	.0000	.0000	.0000	.0000
57	.0000	.0000	.0000	.0000	.0000
58	.0000	.0000	.0000	.0000	.0000
59	.0000	.0000	.0000	.0000	.0000
60	.0000	.0000	.0000	.0000	.0000
61	.0000	.0000	.0000	.0000	.0000
62	.0000	.0000	.0000	.0000	.0000
63	.0000	.0000	.0000	.0000	.0000
64	.0000	.0000	.0000	.0000	.0000
65	.0000	.0000	.0000	.0000	.0000
66	.0000	.0000	.0000	.0000	.0000
67	.0000	.0000	.0000	.0000	.0000
68	.0000	.0000	.0000	.0000	.0000
69	.0000	.0000	.0000	.0000	.0000
70	.0000	.0000	.0000	.0000	.0000

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	3.2%	3.4%	3.6%	3.8%	4%
53	.54943	.53086	.51311	.49665	.48003
54	.5399	.52060	.50322	.48722	.47044
55	.53142	.51228	.49537	.47989	.46347
56	.52290	.50396	.48740	.47235	.45631
57	.51441	.49566	.47951	.46494	.44940
58	.50592	.48736	.47161	.45744	.44240
59	.49743	.47906	.46361	.44984	.43540
60	.48894	.47076	.45561	.44224	.42840
61	.48045	.46246	.44761	.43464	.42080
62	.47196	.45416	.43961	.42704	.41360
63	.46347	.44586	.43161	.41944	.40640
64	.45498	.43756	.42361	.41184	.39920
65	.44649	.42926	.41561	.40424	.39200
66	.43800	.42078	.40721	.39584	.38400
67	.42951	.41229	.39871	.38734	.37500
68	.42102	.40380	.39021	.37884	.36650
69	.41253	.39531	.38171	.37034	.35800
70	.40404	.38682	.37321	.36184	.34950
71	.39555	.37833	.36471	.35334	.34100
72	.38706	.36984	.35621	.34484	.33250
73	.37857	.36135	.34771	.33634	.32400
74	.37008	.35286	.33921	.32784	.31550
75	.36159	.34437	.33071	.31934	.30700
76	.35310	.33588	.32221	.31084	.29850
77	.34461	.32739	.31371	.30234	.29000
78	.33612	.31890	.30521	.29384	.28150
79	.32763	.31041	.29671	.28534	.27300
80	.31914	.30192	.28821	.27684	.26450
81	.31065	.29343	.27971	.26834	.25600
82	.30216	.28494	.27121	.25984	.24750
83	.29367	.27645	.26271	.25134	.23900
84	.28518	.26796	.25421	.24284	.23050
85	.27669	.25947	.24571	.23434	.22200
86	.26820	.25098	.23721	.22584	.21350
87	.25971	.24249	.22871	.21734	.20500
88	.25122	.23400	.22021	.20884	.19650
89	.24273	.22551	.21171	.20034	.18800
90	.23424	.21702	.20321	.19184	.17950
91	.22575	.20853	.19471	.18334	.17100
92	.21726	.19999	.18611	.17474	.16240
93	.20877	.19155	.17761	.16624	.15390
94	.20028	.18306	.16911	.15774	.14540
95	.19179	.17457	.16061	.14924	.13690
96	.18330	.16608	.15211	.14074	.12840
97	.17481	.15759	.14361	.13224	.12000
98	.16632	.14910	.13511	.12374	.11140
99	.15783	.14061	.12661	.11524	.10290
100	.14934	.13212	.11811	.10674	.09440
101	.14085	.12363	.10961	.09824	.08590
102	.13236	.11514	.10111	.08974	.07740
103	.12387	.10665	.09261	.08124	.06890
104	.11538	.09816	.08411	.07274	.06040
105	.10689	.08967	.07561	.06424	.05190
106	.09840	.08118	.06711	.05574	.04340
107	.08991	.07269	.05861	.04724	.03490
108	.08142	.06420	.05011	.03874	.02640
109	.07293	.05571	.04161	.03024	.01790
110	.06444	.04722	.03311	.02174	.00940

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TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	4.2%	4.4%	4.6%	4.8%	5%
33	247.25	23354	22077	20888	1978
34	25603	24217	22926	21721	20590
35	26509	25111	23805	22585	21445
36	27443	26032	24714	2348	22325
37	28405	26983	25652	24405	23236
38	29393	27962	26619	2536	24177
39	30408	28967	27614	26344	25149
40	31446	29997	28635	27354	26148
41	32507	31052	29681	2839	27174
42	3359	32129	30752	29452	28226
43	34694	33229	31846	3054	29305
44	35819	34352	32964	31651	30409
45	36963	35495	34104	32787	31538
46	38133	3666	35267	33946	32692
47	39323	37846	36451	35128	33871
48	40532	39046	37653	36328	35068
49	41762	40268	38866	37542	3628
50	42933	41476	40087	38764	37502
51	44148	42697	41313	39991	3873
52	45367	43923	42544	41226	39966
53	46591	45165	43782	42469	41212
54	47824	46438	45032	43725	42472
55	49073	47745	46301	44998	43751
56	50338	49076	4758	46288	45048
57	51599	5021	48877	47595	46363
58	52876	51503	50182	48912	4769
59	54151	52795	51489	50231	4902
60	5542	54082	52791	51547	50348
61	56681	55361	54087	52857	51671
62	57932	56632	55376	54162	52989
63	59178	57905	5666	55462	54298
64	60416	59157	57939	56759	55617
65	61649	60412	59214	58053	56928
66	62875	61662	60485	59344	58236
67	64095	62906	61751	60632	59542
68	65308	64145	63014	61914	60845
69	66519	65381	64275	63197	6215
70	67728	66617	65535	64482	63456
71	68935	67853	66798	65769	64767
72	70141	69088	6806	67058	6608
73	71345	70322	69323	68318	67395
74	72543	71552	70583	69586	6871
75	73735	72755	71837	70819	70021
76	74927	73963	73086	72198	71329
77	76107	75155	74331	73473	72634
78	77283	76345	75504	74739	7393
79	78467	77544	76776	75983	75205
80	79651	7873	77955	77195	76488
81	80837	79922	79181	78352	77635
82	81998	81086	80335	79437	78749
83	83199	82267	81516	80546	79796
84	84395	83453	82683	81644	80808
85	85594	84653	83871	82743	81826
86	86795	85854	85071	83846	82841
87	87998	87055	86277	85009	83859
88	89199	88256	87482	86176	84878
89	90395	89457	88683	87343	85897
90	91594	90658	89884	88510	86916
91	92795	91859	91081	89677	88935
92	93998	93060	92283	90844	90000
93	95199	94261	93484	92011	91065
94	96395	95462	94685	93178	92130
95	97594	96663	95886	94345	93195
96	98795	97864	97087	95512	94260
97	99998	99065	98288	96679	95325
98	101199	100266	99489	97846	96390
99	102395	101467	100690	99013	97455
100	103594	102668	101891	100180	98520

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	5.2%	5.4%	5.6%	5.8%	6%
10	07335	06777	06273	05816	05402
11	07675	07102	06582	06111	05684
12	08032	07442	06908	06423	05981
13	08403	07797	07247	06747	06292
14	08781	08159	07594	07079	06609
15	09165	08526	07945	07415	06931
16	09551	08896	08298	07753	07254
17	09943	0927	08656	08095	07581
18	10338	09649	09018	08441	07911
19	10744	10036	09388	08794	08249
20	11159	10433	09768	09158	08597
21	11586	10842	10159	09531	08954
22	12025	11262	10561	09916	09322
23	12482	11701	10982	10319	09708
24	12943	12164	11426	10743	10116
25	13476	12657	11901	11187	10555
26	14022	13184	12411	11659	11028
27	14592	13746	12952	12157	11535
28	15185	14344	13528	12774	12075
29	15801	14967	14137	13365	12647
30	16436	15623	14775	13985	1325
31	17124	16311	15444	14637	13883
32	17873	17023	16157	15322	14549
33	18685	17765	16909	16046	15248
34	19564	18543	17695	16795	1598
35	20518	19368	18544	17568	16745
36	21542	20228	19477	18364	17545
37	22129	21109	20412	19233	18378
38	23086	22022	21364	20116	19245
39	23924	22966	22307	21031	20145
40	25111	2394	2323	21977	21077
41	26026	24948	24202	22953	2204
42	27067	25973	25198	23959	23033
43	28137	27031	26265	24994	24056
44	29232	28118	27361	26059	25109
45	30354	29231	28465	27153	26192
46	31502	30372	29598	28277	27305
47	32676	31539	30758	29429	28448
48	33878	32737	31944	30603	29615
49	35078	33952	33284	31797	30802
50	36298	35149	34592	33004	32003
51	37526	36375	35874	34222	33215
52	38762	37609	37207	35451	34444
53	40009	38859	38572	36694	3568
54	41271	4012	39816	37957	3694
55	42554	41405	41092	39241	38234
56	43856	42711	42401	40552	39534
57	45178	44038	43741	41885	40869
58	46513	45379	44987	43235	42222
59	47852	46736	4634	44593	43583
60	49194	48093	47695	45954	44948
61	50524	49417	48947	47313	46313
62	51855	50738	49987	48672	47679
63	53183	52096	51048	49991	49046
64	5451	53438	52399	51302	50415
65	55836	54778	53751	52755	51788
66	57161	56117	55104	5412	53164
67	58484	57456	56457	55486	54542
68	59806	58795	57811	56854	55923
69	61129	60136	59169	58228	57311
70	62457	61483	60533	59608	58706
71	63789	62815	61865	60987	60091
72	65125	64153	63282	62364	61456
73	66464	65554	64686	63798	62849
74	67804	66919	66052	65205	64276
75	69141	6828	67436	66613	65606
76	70476	69642	68825	68023	67239
77	7181	71003	70211	69435	68673
78	73135	72346	71592	70841	70106
79	7444	7369	72935	72249	71486
80	75713	74992	74283	73597	72802
81	76931	76238	75536	74866	74027
82	78073	77407	76752	76107	75243
83	79166	78507	77877	77256	7646
84	80185	79571	78966	7837	77533
85	8123	80643	80063	79492	7863
86	82243	81682	81129	80605	79741
87	83236	82692	82165	81644	80813
88	84174	83666	83164	82668	81778
89	85067	84584	84107	83693	82769
90	85987	85427	84972	84723	8378
91	86928	8639	85956	85737	84803
92	873	8688	86466	8656	8585
93	87901	87499	87102	86709	86919
94	88438	88053	87671	87293	87486
95	88928	88557	8819	87826	87965
96	89408	89052	88698	88348	88478
97	89866	89523	89183	88847	88913
98	90301	89972	89646	89322	89401
99	90717	90401	90087	89776	89848
100	91115	9081	90509	9021	89913
101	91495	91202	90912	90625	90339
102	91861	9156	91282	91025	9073
103	9222	9195	91683	91417	91154
104	92583	92324	92068	91813	91561
105	92974	92728	92484	92241	92
106	93445	93214	92984	92756	92529
107	94114	93904	93696	93488	93282
108	94823	94603	94402	94274	94064
109	95528	95308	95107	94854	94648
100	96228	96008	95807	95436	95230

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	6.2%	6.4%	6.6%	6.8%	7%
0	06006	05802	05592	05403	05232
1	06309	06103	05894	05704	05534
2	06614	06407	06198	06008	05819
3	06921	06713	06504	06314	06125
4	07230	07021	06812	06622	06433
5	07541	07332	07123	06933	06744
6	07854	07644	07435	07245	07056
7	08169	07958	07749	07559	07370
8	08486	08275	08066	07876	07687
9	08805	08594	08385	08195	08006
10	09126	08915	08706	08516	08327
11	09449	09238	09029	08839	08650
12	09774	09563	09354	09164	08975
13	10101	09890	09681	09492	09317
14	10430	10219	10010	09821	09646
15	10761	10550	10341	10152	09977
16	11094	10883	10674	10485	10316
17	11429	11218	11009	10820	10651
18	11766	11555	11346	11157	10982
19	12105	11894	11685	11496	11327
20	12446	12235	12026	11837	11668
21	12789	12578	12369	12180	12019
22	13134	12923	12714	12525	12364
23	13481	13270	13061	12876	12725
24	13830	13619	13410	13231	13084
25	14181	13970	13761	13582	13445
26	14534	14321	14112	13935	13808
27	14889	14676	14467	14290	14173
28	15246	15033	14824	14645	14538
29	15605	15392	15183	15000	14865
30	15966	15753	15544	15361	15226
31	16329	16114	15905	15718	15589
32	16694	16479	16270	16081	15950
33	17061	16846	16637	16448	16309
34	17430	17205	17006	16819	16680
35	17801	17576	17377	17190	17051
36	18174	17949	17750	17563	17432
37	18549	18324	18125	17938	17813
38	18926	18701	18502	18315	18190
39	19305	19080	18881	18694	18565
40	19686	19461	19262	19075	18946
41	20069	19844	19645	19458	19329
42	20454	20229	20030	19843	19714
43	20841	20616	20417	20230	20105
44	21230	21005	20806	20619	20500
45	21621	21396	21197	21000	20891
46	22014	21789	21590	21393	21282
47	22409	22184	21985	21788	21673
48	22806	22581	22382	22185	22070
49	23205	22980	22781	22584	22471
50	23606	23381	23182	22985	22882
51	24009	23784	23585	23388	23289
52	24414	24189	23990	23793	23694
53	24821	24596	24397	24200	24101
54	25230	25005	24806	24609	24510
55	25641	25416	25217	25020	24921
56	26054	25829	25630	25433	25334
57	26469	26244	26045	25846	25747
58	26886	26661	26462	26257	26158
59	27305	27080	26881	26668	26569
60	27726	27501	27302	27105	27006
61	28149	27924	27725	27528	27429
62	28574	28349	28150	27953	27854
63	29001	28776	28577	28380	28281
64	29430	29205	29006	28805	28706
65	29861	29636	29437	29240	29141
66	30294	30069	29870	29673	29574
67	30729	30504	30305	30108	30009
68	31166	30941	30742	30545	30446
69	31605	31380	31181	30988	30889
70	32046	31821	31622	31431	31332
71	32489	32264	32065	31874	31775
72	32934	32709	32510	32317	32218
73	33381	33156	32957	32764	32665
74	33830	33605	33406	33211	33112
75	34281	34056	33857	33662	33563
76	34734	34509	34310	34113	34014
77	35189	34964	34765	34568	34469
78	35646	35421	35222	35025	34926
79	36105	35880	35681	35484	35385
80	36566	36341	36142	35945	35846
81	37029	36804	36605	36408	36309
82	37494	37269	37070	36873	36774
83	37961	37736	37537	37340	37241
84	38430	38205	38006	37809	37710
85	38901	38676	38477	38280	38181
86	39374	39149	38950	38753	38654
87	39849	39624	39425	39226	39127
88	40326	40101	39902	39705	39606
89	40805	40580	40381	40184	40085
90	41286	41061	40862	40665	40566
91	41769	41544	41345	41148	41049
92	42254	42029	41830	41633	41534
93	42741	42516	42317	42120	42021
94	43230	43005	42806	42609	42510
95	43721	43496	43297	43100	43001
96	44214	43989	43790	43593	43494
97	44709	44484	44285	44088	43989
98	45206	44981	44782	44585	44486
99	45705	45480	45281	45084	44985
100	46206	45981	45782	45585	45486

RULES AND REGULATIONS

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	6.2%	6.4%	6.6%	6.8%	7%
102	90478	90208	8994	89673	89409
103	90892	90632	90374	90118	89863
104	91309	9106	90813	90557	90303
105	91726	91483	91236	90981	90726
106	92143	91907	91667	91426	91181
107	92560	92324	92081	91836	91591
108	92977	92740	92494	92248	92002
109	93394	93156	92909	92662	92416
110	93811	93572	93324	93076	92829

TABLE G(1)

(1) Age	(2) Yearly rate of return				
	7.2%	7.4%	7.6%	7.8%	8%
0	05077	04937	04800	04663	04528
1	02408	0235	02215	02081	01948
2	02494	0234	022	02073	01940
3	02558	02397	02251	02118	01986
4	02632	02471	02324	02191	02059
5	02709	02548	02401	02268	02136
6	02785	02624	02477	02344	02212
7	02861	02699	02552	02419	02287
8	02937	02775	02628	02495	02363
9	03013	02851	02704	02571	02439
10	03089	02927	02780	02647	02515
11	03165	02999	02852	02719	02587
12	03241	03071	02924	02791	02659
13	03317	03143	03000	02863	02731
14	03393	03219	03076	02939	02803
15	03469	03295	03152	03015	02879
16	03545	03371	03228	03091	02955
17	03621	03447	03304	03167	03031
18	03697	03523	03380	03243	03107
19	03773	03599	03456	03319	03183
20	03849	03675	03532	03395	03259
21	03925	03751	03608	03471	03335
22	04001	03827	03684	03547	03411
23	04077	03903	03760	03623	03487
24	04153	03979	03836	03699	03563
25	04229	04055	03912	03775	03639
26	04305	04131	04000	03851	03715
27	04381	04207	04076	03927	03791
28	04457	04283	04152	04003	03867
29	04533	04359	04228	04079	03943
30	04609	04435	04304	04155	04019
31	04685	04511	04380	04231	04095
32	04761	04587	04456	04307	04171
33	04837	04663	04532	04383	04247
34	04913	04739	04608	04459	04323
35	04989	04815	04684	04535	04399
36	05065	04891	04760	04611	04475
37	05141	04967	04836	04687	04551
38	05217	05043	04912	04763	04627
39	05293	05119	04988	04839	04703
40	05369	05195	05064	04915	04779
41	05445	05271	05140	04991	04855
42	05521	05347	05216	05067	04931
43	05597	05423	05292	05143	05007
44	05673	05500	05369	05219	05083
45	05749	05576	05445	05295	05159
46	05825	05652	05521	05371	05235
47	05901	05728	05597	05447	05311
48	05977	05804	05683	05523	05387
49	06053	05880	05759	05600	05463
50	06129	05956	05835	05676	05539
51	06205	06032	05911	05752	05615
52	06281	06108	05987	05828	05691
53	06357	06184	06063	05904	05767
54	06433	06260	06139	05980	05843
55	06509	06336	06215	06056	05919
56	06585	06412	06291	06132	06000
57	06661	06488	06367	06208	06076
58	06737	06564	06443	06284	06152
59	06813	06640	06519	06360	06228
60	06889	06716	06595	06436	06304
61	06965	06792	06671	06512	06380
62	07041	06868	06747	06588	06456
63	07117	06944	06823	06664	06532
64	07193	07020	06899	06740	06608
65	07269	07096	06975	06816	06684
66	07345	07172	07051	06892	06760
67	07421	07248	07127	06968	06836
68	07497	07324	07203	07044	06912
69	07573	07400	07279	07120	07000
70	07649	07476	07355	07196	07076
71	07725	07552	07431	07272	07152
72	07801	07628	07507	07348	07228
73	07877	07704	07583	07424	07304
74	07953	07780	07659	07500	07380
75	08029	07856	07735	07576	07456
76	08105	07932	07811	07652	07532
77	08181	08008	07887	07728	07608
78	08257	08084	07963	07804	07684
79	08333	08160	08039	07880	07760
80	08409	08236	08115	07956	07836

TABLE G(1)—Continued

(1) Age	(2) Yearly rate of return				
	7.2%	7.4%	7.6%	7.8%	8%
81	70489	69901	69321	68755	68189
82	71866	71277	70706	70144	69589
83	73166	72576	72012	71458	70911
84	74429	73839	73273	72726	72186
85	75709	75119	74554	74015	73474
86	76989	76399	75834	75295	74754
87	78278	77688	77123	76584	76043
88	79567	78977	78412	77873	77332
89	80856	80266	79701	79162	78623
90	82145	81555	80990	80451	79912
91	83434	82844	82279	81740	81199
92	84723	84133	83568	83029	82488
93	86012	85422	84857	84318	83777
94	87301	86711	86146	85607	85066
95	88590	88000	87435	86896	86355
96	89879	89289	88724	88185	87644
97	91168	90578	90013	89474	88933
98	92457	91867	91302	90763	90222
99	93746	93156	92591	92052	91511
100	95035	94445	93880	93341	92799

TABLE G(2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND, HAVING THE YEARLY RATE OF RETURN SHOWN

(1) Age	(2) Yearly rate of return				
	2.2%	2.4%	2.6%	2.8%	3%
0	22062	20119	17921	1602	14372
1	21362	19424	17226	15328	13682
2	20662	18724	16526	14630	13082
3	19962	18024	15826	13930	12482
4	19262	17324	15126	13230	11882
5	18562	16624	14426	12530	11282
6	17862	15924	13726	11830	10682
7	17162	15224	13026	11130	10082
8	16462	14524	12326	10430	9482
9	15762	13824	11626	9730	8882
10	15062	13124	10926	9030	8282
11	14362	12424	10226	8330	7682
12	13662	11724	9526	7630	7082
13	12962	11024	8826	6930	6482
14	12262	10324	8126	6230	5882
15	11562	9624	7426	5530	5282
16	10862	8924	6726	4830	4682
17	10162	8224	6026	4130	4082
18	9462	7524	5326	3430	3482
19	8762	6824	4626	2730	2882
20	8062	6124	3926	2030	2182
21	7362	5424	3226	1330	1482
22	6662	4724	2526	630	782
23	5962	4024	1826	0	0
24	5262	3324	1126	0	0
25	4562	2624	426	0	0
26	3862	1924	0	0	0
27	3162	1224	0	0	0
28	2462	524	0	0	0
29	1762	0	0	0	0
30	1062	0	0	0	0
31	362	0	0	0	0
32	0	0	0	0	0
33	0	0	0	0	0
34	0	0	0	0	0
35	0	0	0	0	0
36	0	0	0	0	0
37	0	0	0	0	0
38	0	0	0	0	0
39	0	0	0	0	0
40	0	0	0	0	0
41	0	0	0	0	0
42	0	0	0	0	0
43	0	0	0	0	0
44	0	0	0	0	0
45	0	0	0	0	0
46	0	0	0	0	0
47	0	0	0	0	0
48	0	0	0	0	0
49	0	0	0	0	0
50	0	0	0	0	0
51	0	0	0	0	0
52	0	0	0	0	0
53	0	0	0	0	0
54	0	0	0	0	0
55	0	0	0	0	0
56	0	0	0	0	0
57	0	0	0	0	0
58	0	0	0	0	0
59	0	0	0	0	0
60	0	0	0	0	0
61	0	0	0	0	0
62	0	0	0	0	0
63	0	0	0	0	0
64	0	0	0	0	0
65	0	0	0	0	0
66	0	0	0	0	0
67	0	0	0	0	0
68	0	0	0	0	0
69	0	0	0	0	0
70	0	0	0	0	0
71	0	0	0	0	0
72	0	0	0	0	0
73	0	0	0	0	0
74	0	0	0	0	0
75	0	0	0	0	0
76	0	0	0	0	0
77	0	0	0	0	0
78	0	0	0	0	0
79	0	0	0	0	0
80	0	0	0	0	0

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return				
	2.2%	2.4%	2.6%	2.8%	3%
55	61353	58856	56487	54239	52105
56	62399	59945	57613	55397	53229
57	63456	61046	58753	56571	54494
58	64518	62155	59904	57758	55711
59	65583	63269	6106	58951	56938
60	66648	64383	62218	60149	5817
61	67711	65496	63377	61349	59406
62	68771	66609	64537	62551	60647
63	69834	67722	65699	63757	6189

TABLE G (2)—Continued

(1) Age	(2) Yearly rate of return				
	3.2%	3.4%	3.6%	3.8%	4%
50	44335	42345	40464	38601	37016
51	44545	42468	40585	38725	37136
52	44679	42600	40715	38855	37266
53	44725	42658	40773	38913	37324
54	44891	42824	40939	39079	37490
55	45078	43012	41127	39267	37678
56	45285	43219	41334	39474	37885
57	45513	43447	41562	39702	38113
58	45761	43695	41810	39950	38361
59	46029	43963	42078	40218	38629
60	46317	44251	42366	40506	38917
61	46625	44559	42674	40814	39225
62	46953	44887	43002	41142	39553
63	47301	45235	43350	41490	39901
64	47669	45603	43718	41858	40269
65	48057	45991	44106	42246	40657
66	48465	46399	44514	42654	41065
67	48893	46827	44942	43082	41493
68	49341	47275	45390	43530	41941
69	49809	47743	45858	44008	42409
70	50297	48231	46346	44506	42897
71	50805	48739	46854	45014	43395
72	51333	49267	47382	45542	43923
73	51881	49815	47930	46090	44471
74	52449	50383	48498	46658	45039
75	53037	50971	49086	47246	45627
76	53645	51579	49694	47854	46235
77	54273	52207	50322	48482	46863
78	54921	52855	50970	49130	47511
79	55589	53523	51638	49798	48179
80	56277	54211	52326	50486	48867
81	56985	54919	53034	51194	49575
82	57713	55647	53762	51922	50303
83	58461	56395	54510	52670	51051
84	59229	57163	55278	53438	51819
85	59997	57931	56046	54206	52587
86	60785	58719	56834	54994	53375
87	61593	59527	57642	55802	54183
88	62421	60355	58470	56630	55011
89	63269	61203	59318	57478	55859
90	64137	62071	60186	58346	56727
91	65025	62959	61074	59234	57615
92	65933	63867	61982	60142	58523
93	66861	64795	62910	61070	59451
94	67809	65743	63858	62018	60399

TABLE G (2)

(1) Age	(2) Yearly rate of return				
	4.2%	4.4%	4.6%	4.8%	5%
0	06151	07526	06979	065	06079
1	06333	07688	07141	06606	06155
2	06447	07827	07280	06720	06269
3	06599	07941	07393	06834	06383
4	06784	08035	07487	06948	06497
5	06997	08107	07560	07061	06610
6	07238	08157	07610	07111	06714
7	07503	08184	07637	07138	06761
8	07794	08189	07642	07143	06766
9	08102	08173	07628	07128	06751
10	08427	08138	07593	07093	06716
11	08769	08084	07539	07039	06652
12	09127	08012	07467	06967	06580
13	09501	07913	07368	06868	06481
14	09890	07787	07242	06742	06355
15	10294	07635	07090	06590	06203
16	10713	07458	06913	06413	06026
17	11147	07257	06712	06212	05826
18	11596	07033	06488	06000	05603
19	12060	06787	06242	05754	05357
20	12539	06519	05974	05487	05100
21	13034	06229	05684	05200	04811
22	13545	05917	05372	04890	04500
23	14072	05584	05040	04557	04167
24	14615	05230	04686	04213	03823
25	15174	04857	04313	03770	03370
26	15749	04466	03922	03377	02977
27	16340	04058	03514	02969	02569
28	16947	03634	03090	02546	02146
29	17570	03195	02651	02107	01707
30	18209	02743	02200	01654	01254
31	18864	02279	01736	01197	00800
32	19535	01804	01271	00754	00357
33	20222	01319	00786	00311	00000
34	20925	00825	00292	00000	
35	21644	00322	00000		
36	22379				
37	23129				
38	23894				
39	24674				
40	25469				
41	26279				
42	27104				
43	27944				
44	28800				
45	29671				

TABLE G (2)—Continued

(1) Age	(2) Yearly rate of return				
	4.2%	4.4%	4.6%	4.8%	5%
46	31128	29659	28278	26985	25787
47	32168	30691	29310	27927	26736
48	33224	31749	30368	29003	27784
49	34323	32832	31425	30095	28839
50	35434	33939	32525	31187	29922
51	36568	35069	33635	32305	31031
52	37724	36223	34799	33449	32166
53	38904	37403	35976	34622	33334
54	40113	38612	37184	35826	34534
55	41352	39854	38426	37067	35772
56	42623	41129	39704	38344	37048
57	43924	42436	41015	39657	38361
58	45251	43771	42355	41001	39705
59	46598	45127	43719	42371	41079
60	47961	46501	45102	43761	42474
61	49337	47891	46502	45169	43889
62	50727	49296	47922	46597	45325
63	52133	50718	49356	48045	46783
64	53557	52161	50814	49516	48266
65	55	53624	52296	51014	49777
66	56464	55111	53802	52539	51317
67	57947	56617	55331	54068	52884
68	59443	58141	56878	55606	54472
69	60954	59675	58433	57157	56075
70	62485	61206	59977	58725	57666
71	63936	62743	61535	60319	59285
72	65407	64283	63136	62019	60932
73	66896	65822	64707	63621	62562
74	68402	67364	66273	65219	64193
75	69924	68917	67831	66831	65831
76	71462	70480	69393	68455	67467
77	72999	72017	70906	69978	69024
78	74539	73558	72468	71546	70654
79	75757	74848	73757	73064	72228
80	77131	76214	75131	74578	73758
81	78444	77617	76531	75995	75224
82	79799	78972	77886	77412	76682
83	80982	80133	79047	78672	77950
84	82185	81336	80260	79938	79204
85	83243	82394	81318	81205	80472
86	84358	83509	82433	82493	81761
87	85530	84681	83605	83766	83054
88	86751	85902	84826	84986	84275
89	87923	87074	86000	86166	85484
90	89028	88179	87105	87271	86580
91	90167	89318	88244	88410	87700
92	91339	90480	89406	89572	88868
93	92544	91681	90607	90773	89973
94	93789	92926	91852	92018	91218

TABLE G (2)

(1) Age	(2) Yearly rate of return				
	5.2%	5.4%	5.6%	5.8%	6%
0	05709	05383	05096	04842	04617
1	05776	05450	05163	04909	04684
2	05843	05517	05230	04976	04751
3	05910	05584	05297	05043	04818
4	05977	05651	05364	05110	04885
5	06044	05718	05431	05177	04952
6	06111	05785	05498	05244	05019
7	06178	05852	05565	05311	05086
8	06245	05919	05632	05378	05153
9	06312	05986	05699	05445	05220
10	06379	06053	05766	05512	05287
11	06446	06120	05833	05579	05354
12	06513	06187	05899	05646	05421
13	06580	06254	05966	05713	05488
14	06647	06321	06033	05780	05555
15	06714	06388	06100	05847	05622
16	06781	06455	06167	05914	05689
17	06848	06522	06234	05981	05756
18	06915	06589	06301	06048	05823
19	06982	06656	06368	06115	05890
20	07049	06723	06435	06182	05957
21	07116	06790	06502	06249	06024
22	07183	06857	06569	06316	06091
23	07250	06924	06636	06383	06158
24	07317	06991	06703	06450	06225
25	07384	07058	06770	06517	06292
26	07451	07125	06837	06584	06359
27	07518	07192	06904	06651	06426
28	07585	07259	06971	06718	06493
29	07652	07326	07038	06785	06560
30	07719	07393	07105	06852	06627
31	07786	07460	07172	06919	06694
32	07853	07527	07239	06986	06761
33	07920	07594	07306	07053	06828
34	07987	07661	07373	07120	06895
35	08054	07728	07440	07187	06962
36	08121	07795	07507	07254	07029
37	08188	07862	07574	07321	07096
38	08255	07929	07641	07388	07163
39	08322	07996	07708	07455	07230
40	08389	08063	07775	07522	07297
41	08456	08130	07842	07589	07364
42	08523	08197	07909	07656	07431
43	08590	08264	07976	07723	07498
44	08657	08331	08043	07790	07565
45	08724	08398	08110	07857	07632

TABLE G (2)—Continued

(1) Age	(2) Yearly rate of return				
	6.2%	6.4%	6.6%	6.8%	7%</

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return				
	6.2%	6.4%	6.6%	6.8%	7%
39	14263	13871	12924	12317	11748
40	14062	14283	13588	12964	12378
41	13569	14063	14281	13639	13038
42	16444	157	15001	14343	13724
43	17229	16467	15751	15077	14441
44	18043	17205	16532	1584	15188
45	18869	18004	17315	16637	15968
46	19706	18957	18191	17467	16782
47	20578	19852	1907	18329	17628
48	21623	20781	19983	19227	1851
49	22599	21711	20928	20157	19424
50	23606	22735	21907	21121	20373
51	24645	2376	22918	22117	21355
52	25717	24818	23963	23147	22371
53	26811	25912	25044	24215	23425
54	27921	27048	26167	25326	24523
55	29163	2823	27337	26485	25698
56	30402	29459	28556	27692	26865
57	31687	30735	29823	2895	28111
58	33012	32053	31134	30251	29404
59	34374	33409	32482	31592	30737
60	35766	34796	33864	32968	32105
61	37186	36213	35276	34375	33506
62	38636	37661	36721	35815	34941
63	40117	39142	382	37291	36414
64	41635	4066	39718	38707	37928
65	43191	42218	41278	40188	39488
66	44788	4382	42882	4175	41035
67	46424	45462	44529	43325	42748
68	48092	47139	46213	44914	44412
69	49787	48843	47926	46535	46169
70	51501	50569	49662	482	47922
71	53233	52315	5142	50549	49701
72	54985	54081	53201	52343	51506
73	56751	55864	55	54156	53332
74	58521	57657	5681	55983	55175
75	60301	59454	58627	57818	57026
76	62085	6126	60453	59664	58891
77	63876	63076	62292	61424	60722
78	65664	64801	6413	63385	62656
79	67457	66638	65946	65236	6452
80	69256	68433	67723	67029	66347
81	71070	70114	69434	68765	68107
82	72889	71724	71027	69594	68924
83	74714	73276	72648	70421	71243
84	76546	74846	74216	73255	73042
85	78384	76594	75984	74224	74707
86	80234	78455	77841	76281	76285
87	82099	80329	79766	78259	77750
88	83977	82207	80691	79816	79136
89	85864	84176	83155	80859	80188
90	87761	86069	85041	81898	81157
91	89674	87953	86927	83928	83184
92	91596	89875	88849	85956	85213
93	93527	91809	90781	87983	87243
94	95466	93758	92734	89984	89247

TABLE G(2)

(1) Age	(2) Yearly rate of return				
	7.2%	7.4%	7.6%	7.8%	8%
0	03706	03604	03513	03432	03359
1	01672	01567	01472	01388	01311
2	01631	01525	01422	01335	01253
3	01633	01528	01424	01337	01255
4	017	01579	01471	01374	01285
5	01762	01636	01522	0142	01326
6	01835	01704	01584	01477	01379
7	01922	01784	01659	01546	01441
8	02002	01865	01745	01626	01518
9	0213	01997	01871	01757	01641
10	02251	02113	01987	01871	01752
11	02383	02245	02119	01996	01876
12	02526	02388	02262	02139	02011
13	02676	02538	02412	02289	02161
14	02835	02697	02571	02448	02321
15	03001	02863	02737	02614	02487
16	03172	02935	02809	02686	02559
17	03351	03114	02988	02865	02738
18	03537	03299	03173	03050	02923
19	03733	03495	03369	03246	03119
20	03941	03693	03567	03444	03317
21	04162	03914	03788	03665	03538
22	04395	04147	04021	03898	03771
23	04641	04393	04267	04144	04017
24	04899	04651	04525	04402	04275
25	05169	04921	04795	04672	04545
26	05451	05213	05087	04964	04837
27	05744	05506	05380	05257	05130
28	06048	05810	05684	05561	05434
29	06363	06125	06000	05877	05750
30	06689	06451	06325	06202	06075
31	07026	06788	06662	06539	06412
32	07374	07136	07010	06887	06760

TABLE G(2)—Continued

(1) Age	(2) Yearly rate of return				
	7.2%	7.4%	7.6%	7.8%	8%
33	06994	07075	0724	06937	06606
34	08542	08118	07792	07352	07007
35	09024	08600	08275	07835	07492
36	09532	09108	08783	08343	07998
37	10066	09642	09317	08877	08532
38	10626	10202	09877	09437	09092
39	11214	10790	10465	10025	09680
40	11828	11404	11079	10639	10294
41	12471	12047	11722	11282	10937
42	13141	12717	12392	11952	11607
43	13841	13417	13092	12652	12307
44	14573	14149	13824	13384	13039
45	15336	14912	14587	14147	13802
46	16134	15710	15385	14945	14600
47	16964	16540	16215	15775	15430
48	17833	17409	17084	16644	16299
49	18729	18305	17980	17540	17195
50	19662	19238	18913	18473	18128
51	20629	20205	19880	19440	19095
52	21634	21210	20885	20445	20100
53	22671	22247	21922	21482	21137
54	23755	23331	23006	22566	22221
55	24888	24464	24139	23699	23354
56	26073	25649	25324	24884	24539
57	27309	26885	26560	26120	25775
58	28591	28167	27842	27402	27057
59	29914	29490	29165	28725	28380
60	31281	30857	30532	30092	29747
61	32694	32270	31945	31505	31160
62	34153	33729	33404	32964	32619
63	35666	35242	34917	34477	34132
64	37233	36809	36484	36044	35699
65	38856	38432	38107	37667	37322
66	40534	40110	39785	39345	38999
67	42267	41843	41518	41078	40733
68	44056	43632	43307	42867	42522
69	45899	45475	45150	44710	44365
70	47796	47372	47047	46607	46262
71	49747	49323	48998	48558	48213
72	51752	51328	51003	50563	50218
73	53811	53387	53062	52622	52277
74	55924	55500	55175	54735	54390
75	58091	57667	57342	56902	56557
76	60312	59888	59563	59123	58778
77	62587	62163	61838	61398	61053
78	64916	64492	64167	63727	63382
79	67299	66875	66550	66110	65765
80	69736	69312	68987	68547	68202
81	72227	71803	71478	71038	70693
82	74772	74348	74023	73583	73238
83	77371	76947	76622	76182	75837
84	80024	79600	79275	78835	78490
85	82731	82307	81982	81542	81197
86	85492	85068	84743	84303	83958
87	88307	87883	87558	87118	86773
88	91176	90752	90427	90000	89555
89	94099	93675	93350	92910	92465
90	97076	96652	96327	95887	95442
91	100107	99683	99358	98918	98473
92	103192	102768	102443	101993	101548
93	106333	105909	105584	105134	104689
94	109530	109106	108781	108331	107886

§ 1.642(c)-7 Transitional rules with respect to pooled income funds.

(a) *In general.*—(1) *Amendment of certain funds.* A fund created before May 7, 1971, and not otherwise qualifying as a pooled income fund may be treated as a pooled income fund to which § 1.642(c)-5 applies if on July 31, 1969, or on each date of transfer of property to the fund occurring after July 31, 1969, it possessed the initial characteristics described in paragraph (b) of this section and is amended, in the time and manner provided in paragraph (c) of this section, to meet all the requirements of section 642(c) (5) and § 1.642(c)-5. If a fund to which this subparagraph applies is amended in the time and manner provided in paragraph (c) of this section it shall be treated as provided in paragraph (d) of this section for the period beginning on August 1, 1969, or, if later, on the date of its creation and ending the day before the date on which it meets the requirements of section 642(c) (5) and § 1.642(c)-5.

(2) *Severance of a portion of a fund.* Any portion of a fund created before May 7, 1971 which consists of property transferred to such fund after July 31, 1969, may be severed from such fund consistently with the principles of paragraph (c) (2) of this section and established before July 1, 1971, as a separate pooled income fund, provided that on and after the date of severance the severed fund meets all the requirements of section 642(c) (5) and § 1.642(c)-5. A fund which is established as a separate fund pursuant to this subparagraph shall be treated as provided in paragraph (d) of this section for the period beginning on the first day of any transfer of property in such fund and ending the day before the day on which it meets the requirements of section 642(c) (5) and § 1.642(c)-5.

(b) *Initial characteristics required.* A fund described in paragraph (a) (1) of this section shall not be treated as a pooled income fund to which section 642(c) (5) applies, even though it is amended as provided in paragraph (c) of this section, unless it possessed the following characteristics on July 31, 1969, or on each date of transfer of property to the fund occurring after July 31, 1969:

(1) It satisfied the requirements of section 642(c) (5) (A) other than that the fund be a trust;

(2) It was constituted in a way to attract and contain commingled properties transferred to the fund by more than one donor satisfying such requirements; and

(3) Each beneficiary of a life income interest which was retained or created in any property transferred to the fund was entitled to receive, but not less often than annually, a proportional share of the annual income earned by the fund, such share being based on the fair market value of the property in which such life interest was retained or created.

(c) *Amendment requirements.* (1) A fund described in paragraph (a) (1) of this section and possessing the initial characteristics described in paragraph (b) of this section on the date prescribed therein shall be treated as a pooled income fund if it is amended to meet all the requirements of section 642(c) (5) and § 1.642(c)-5 before July 1, 1971, or, if later, on or before the 30th day after the date on which any judicial proceedings begun before July 1, 1971, which are required to amend its governing instrument or any other instrument which does not permit it to meet such requirements, become final. However, see paragraph (d) of this section for limitation on the period in which a claim for credit or refund may be filed.

(2) In addition, if the transferred property described in paragraph (b) (2) of this section is commingled with other property, the transferred property must be separated on or before the date specified in subparagraph (1) of this paragraph from the other property and allocated to the fund in accordance with the transferred property's percentage share of the fair market value of the

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total commingled property on the date of separation. The percentage share shall be the ratio which the fair market value of the transferred property on the date of separation bears to the fair market value of the total commingled property on that date and shall be computed in a manner consistent with paragraph (c) of § 1.642(c)-5. The property which is so allocated to the fund shall be treated as property received from transfers which meet the requirements of section 642(c)(5), and such transfers shall be treated as made on the dates on which the properties giving rise to such allocation were transferred to the fund by the respective donors. The property so allocated to the fund must be representative of all the commingled property other than securities the income from which

is exempt from tax under subtitle A of the Code; compensating increases in other commingled property allocated to the fund shall be made where such tax-exempt securities are not allocated to the fund. The application of this subparagraph may be illustrated by the following example:

Example. (a) The trustees of X fund are in the process of amending it in order to qualify as a pooled income fund. The property transferred to the X fund was commingled with other property transferred to the organization by which the fund was established. After taking into account the various transfers and the appreciation in the fair market value of all the properties, the fair market value of the property allocated to the fund on the various transfer dates is set forth in the following schedule and determined in the manner indicated:

TRANSFERS					
Date of transfer	Value of all property before transfer	Trust property	Other property	Value of all property after transfer	Property allocated to fund
	(1)	(2)	(3)	(4)	(5)
January 1, 1968		\$100,000	\$100,000	\$200,000	\$100,000
September 30, 1968	\$300,000	100,000		400,000	\$250,000
January 15, 1969	480,000	60,000		540,000	\$360,000
November 11, 1969	600,000	200,000		800,000	\$600,000

\$100,000 = (the amount in column (2)).
 * 250,000 = $(\$100,000 \div \$200,000) \times \$500,000 + \$100,000$.
 † 360,000 = $(\$250,000 \div \$400,000) \times \$540,000 + \$100,000$.
 ‡ 600,000 = $(\$360,000 \div \$540,000) \times \$800,000 + \$200,000$.

(b) On September 30, 1970, the trustees decide to separate the property of X fund from the other property. The fair market value of all the commingled property is \$1 million on September 30, 1970, and there were no additional transfers to the fund after November 11, 1969. Accordingly, the fair market value of the property required to be allocated to X fund must be \$750,000 $(\$600,000 / \$800,000 \times \$1,000,000)$, and X fund's percentage share of the commingled property is 75 percent $(\$750,000 / \$1,000,000)$. Accordingly, assuming that the commingled property consists of Y stock with a fair market value of \$800,000 and Z bonds with a fair market value of \$200,000, there must be allocated to X fund at the close of September 30, 1970, Y stock with a value of \$600,000 $(\$800,000 \times 75\%)$ and Z bonds with a value of \$150,000 $(\$200,000 \times 75\%)$.

(d) *Transactions before amendment of or severance from fund.* (1) A fund which is amended pursuant to paragraph (c) of this section, or is severed from a fund pursuant to paragraph (a) (2) of this section, shall be treated for all purposes, including the allowance of a deduction for any charitable contribution, as if it were before its amendment or severance a pooled income fund to which section 642(c)(5) and § 1.642(c)-5 apply. Thus, for example, where a donor transferred property in trust to such an amended or severed fund on August 1, 1969, but before its amendment or severance under this section, a charitable contributions deduction for the value of the remainder interest may be allowed under section 170, 2055, 2106, or 2522. The deduction may not be allowed, however, until the fund is amended or

severed pursuant to this section and shall be allowed only if a claim for credit or refund is filed within the period of limitation prescribed by section 6511(a).

(2) For purposes of determining under paragraph (b)(2) of § 1.642(c)-6 the highest yearly rate of return earned by a fund (which is amended pursuant to paragraph (c) of this section) for the 3 preceding taxable years, taxable years of the fund preceding its taxable year in which the fund is so amended and qualifies as a pooled income fund under this section shall be used provided that the fund did not at any time during such preceding years hold any investments in securities the income from which is exempt from tax under subtitle A of the Code. If any such tax-exempt securities were held during such period by such amended fund, or if the fund consists of a portion of a fund which is severed pursuant to paragraph (a)(2) of this section, the highest yearly rate of return under paragraph (b)(2) of § 1.642(c)-6 shall be determined by treating the fund as a pooled income fund which has been in existence for less than 3 taxable years preceding the taxable year in which the transfer of property to the fund is made.

(3) Property transferred to a fund before its amendment pursuant to paragraph (c) of this section, or before its severance under paragraph (a)(2) of this section, shall be treated as property received from transfers which meet the requirements of section 642(c)(5).

[FR Doc.71-4589 Filed 4-5-71;8:45 am]

EXTENSION OF TABLES G(1) AND G(2)

Tables G(1) and G(2) published in §1.642(c)-6 for valuation of a remainder interest in property transferred to a pooled income fund are based on the assumption that the highest yearly rate of return would be 8%.

In response to the need for factors based on higher rates the Committee on Gift Annuities contracted with the actuarial firm of Huggins and Company to produce extended tables showing appropriate factors for returns up to 10%.

These extended factors are reproduced on the following pages.

Remainder Interest Factors for Pooled Income Funds - MALES

X	Yearly Rate of Return									
	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.04491	.04403	.04322	.04247	.04179	.04116	.04058	.04004	.03954	.03907
1	.01882	.01789	.01705	.01627	.01556	.01491	.01431	.01375	.01324	.01276
2	.01851	.01754	.01665	.01584	.01510	.01441	.01378	.01320	.01266	.01216
3	.01885	.01784	.01691	.01606	.01528	.01456	.01389	.01328	.01271	.01219
4	.01949	.01843	.01745	.01656	.01574	.01498	.01428	.01363	.01304	.01248
5	.02034	.01923	.01820	.01726	.01640	.01560	.01486	.01418	.01355	.01297
6	.02134	.02018	.01910	.01811	.01720	.01636	.01559	.01487	.01421	.01359
7	.02248	.02126	.02013	.01909	.01814	.01725	.01644	.01568	.01498	.01433
8	.02377	.02248	.02130	.02021	.01920	.01828	.01742	.01662	.01588	.01519
9	.02520	.02385	.02261	.02147	.02041	.01944	.01853	.01769	.01691	.01619
10	.02679	.02538	.02408	.02288	.02177	.02074	.01979	.01891	.01809	.01732
11	.02855	.02707	.02571	.02445	.02329	.02221	.02121	.02028	.01941	.01861
12	.03044	.02890	.02747	.02615	.02493	.02379	.02274	.02177	.02086	.02001
13	.03243	.03082	.02932	.02794	.02666	.02547	.02437	.02334	.02239	.02150
14	.03447	.03278	.03122	.02977	.02843	.02718	.02602	.02495	.02394	.02301
15	.03651	.03475	.03311	.03160	.03020	.02889	.02768	.02655	.02549	.02451
16	.03853	.03669	.03499	.03340	.03193	.03057	.02929	.02811	.02700	.02597
17	.04056	.03863	.03685	.03520	.03366	.03223	.03089	.02965	.02849	.02740
18	.04257	.04056	.03870	.03697	.03536	.03386	.03246	.03116	.02994	.02880
19	.04463	.04253	.04059	.03878	.03709	.03552	.03406	.03269	.03141	.03021
20	.04673	.04454	.04251	.04061	.03885	.03721	.03567	.03424	.03289	.03164
21	.04888	.04660	.04448	.04250	.04065	.03893	.03732	.03582	.03441	.03309
22	.05111	.04873	.04651	.04444	.04250	.04070	.03901	.03743	.03595	.03456
23	.05346	.05097	.04866	.04649	.04447	.04258	.04081	.03915	.03759	.03613
24	.05600	.05340	.05098	.04872	.04660	.04462	.04276	.04102	.03938	.03785
25	.05881	.05610	.05357	.05120	.04899	.04691	.04496	.04313	.04142	.03980
26	.06192	.05910	.05646	.05398	.05166	.04949	.04745	.04553	.04372	.04202
27	.06535	.06241	.05965	.05706	.05464	.05236	.05022	.04820	.04631	.04452
28	.06908	.06601	.06314	.06044	.05790	.05552	.05327	.05116	.04917	.04730
29	.07312	.06993	.06693	.06411	.06146	.05897	.05662	.05440	.05232	.05035
30	.07743	.07411	.07099	.06805	.06528	.06268	.06022	.05790	.05571	.05364
31	.08204	.07859	.07534	.07228	.06939	.06667	.06410	.06167	.05938	.05721
32	.08697	.08338	.08000	.07681	.07380	.07096	.06827	.06574	.06333	.06106
33	.09221	.08849	.08497	.08165	.07852	.07556	.07275	.07010	.06759	.06521
34	.09779	.09393	.09028	.08683	.08357	.08048	.07755	.07479	.07216	.06967

Remainder Interest Factors for Pooled Income Funds - MALES

	Yearly Rate of Return									
	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
35	.10372	.09971	.09593	.09234	.08895	.08574	.08269	.07980	.07706	.07446
36	.10999	.10584	.10192	.09820	.09467	.09133	.08816	.08515	.08229	.07957
37	.11661	.11232	.10826	.10441	.10075	.09728	.09398	.09085	.08787	.08503
38	.12359	.11916	.11496	.11097	.10718	.10358	.10015	.09689	.09379	.09083
39	.13093	.12636	.12202	.11789	.11397	.11023	.10668	.10329	.10007	.09699
40	.13862	.13390	.12942	.12516	.12110	.11723	.11355	.11003	.10668	.10349
41	.14664	.14179	.13717	.13277	.12857	.12457	.12076	.11712	.11365	.11033
42	.15502	.15002	.14526	.14073	.13640	.13227	.12833	.12456	.12096	.11751
43	.16374	.15861	.15371	.14904	.14458	.14032	.13625	.13235	.12863	.12506
44	.17282	.16755	.16252	.15772	.15313	.14874	.14454	.14051	.13666	.13297
45	.18225	.17686	.17170	.16676	.16204	.15752	.15320	.14905	.14507	.14126
46	.19206	.18653	.18124	.17618	.17133	.16669	.16224	.15797	.15387	.14994
47	.20223	.19658	.19117	.18599	.18101	.17625	.17167	.16728	.16306	.15901
48	.21272	.20695	.20142	.19612	.19102	.18614	.18144	.17693	.17260	.16843
49	.22348	.21760	.21195	.20653	.20132	.19631	.19150	.18688	.18243	.17814
50	.23446	.22846	.22270	.21716	.21184	.20672	.20180	.19706	.19250	.18810
51	.24562	.23952	.23365	.22800	.22257	.21734	.21231	.20746	.20278	.19828
52	.25697	.25077	.24480	.23905	.23351	.22817	.22303	.21807	.21329	.20868
53	.26856	.26226	.25619	.25034	.24470	.23926	.23401	.22895	.22406	.21934
54	.28044	.27405	.26789	.26194	.25620	.25067	.24532	.24016	.23517	.23035
55	.29267	.28620	.27995	.27391	.26808	.26246	.25702	.25176	.24667	.24176
56	.30527	.29872	.29239	.28627	.28036	.27465	.26912	.26377	.25860	.25359
57	.31824	.31162	.30522	.29903	.29304	.28725	.28164	.27621	.27095	.26586
58	.33150	.32482	.31836	.31210	.30605	.30018	.29450	.28900	.28366	.27849
59	.34495	.33823	.33171	.32540	.31928	.31335	.30760	.30203	.29662	.29138
60	.35855	.35177	.34521	.33885	.33268	.32669	.32088	.31525	.30977	.30446
61	.37223	.36543	.35882	.35242	.34620	.34016	.33430	.32861	.32308	.31770
62	.38603	.37919	.37256	.36612	.35986	.35378	.34787	.34212	.33654	.33111
63	.39993	.39307	.38642	.37994	.37365	.36753	.36159	.35580	.35017	.34469
64	.41396	.40710	.40042	.39393	.38762	.38147	.37549	.36966	.36399	.35847
65	.42814	.42128	.41459	.40809	.40175	.39558	.38958	.38373	.37802	.37246
66	.44245	.43559	.42891	.42240	.41606	.40988	.40385	.39798	.39225	.38666
67	.45689	.45005	.44338	.43687	.43053	.42434	.41831	.41242	.40667	.40107
68	.47148	.46466	.45800	.45151	.44518	.43899	.43296	.42706	.42131	.41569
69	.48624	.47946	.47283	.46637	.46005	.45388	.44785	.44196	.43620	.43058

Remainder Interest Factors for Pooled Income Funds - MALES
Yearly Rate of Return

	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
70	.50122	.49448	.48790	.48146	.47517	.46903	.46302	.45713	.45139	.44577
71	.51643	.50974	.50321	.49682	.49057	.48446	.47847	.47262	.46689	.46128
72	.53187	.52525	.51878	.51245	.50624	.50018	.49423	.48841	.48272	.47713
73	.54752	.54099	.53459	.52832	.52219	.51618	.51028	.50451	.49885	.49331
74	.56337	.55693	.55062	.54443	.53837	.53243	.52660	.52088	.51528	.50978
75	.57937	.57303	.56682	.56073	.55476	.54889	.54314	.53750	.53196	.52652
76	.59554	.58933	.58323	.57724	.57136	.56560	.55993	.55437	.54891	.54354
77	.61188	.60580	.59982	.59396	.58820	.58253	.57697	.57151	.56613	.56086
78	.62831	.62238	.61655	.61082	.60518	.59964	.59419	.58883	.58357	.57838
79	.64468	.63890	.63322	.62763	.62214	.61673	.61141	.60617	.60102	.59594
80	.66081	.65520	.64968	.64424	.63889	.63362	.62844	.62333	.61830	.61336
81	.67636	.67091	.66555	.66027	.65507	.64995	.64490	.63993	.63503	.63021
82	.69103	.68575	.68055	.67542	.67036	.66539	.66048	.65564	.65087	.64616
83	.70491	.69979	.69474	.68976	.68485	.68000	.67523	.67052	.66588	.66129
84	.71843	.71347	.70858	.70375	.69893	.69428	.68965	.68507	.68055	.67610
85	.73219	.72740	.72267	.71801	.71340	.70886	.70437	.69995	.69557	.69125
86	.74564	.74103	.73648	.73198	.72754	.72315	.71882	.71454	.71031	.70614
87	.75981	.75539	.75001	.74568	.74141	.73719	.73301	.72889	.72482	.72079
88	.77162	.76738	.76318	.75903	.75493	.75088	.74687	.74290	.73899	.73510
89	.78379	.77973	.77571	.77173	.76780	.76391	.76007	.75626	.75249	.74877
90	.79502	.79112	.78727	.78346	.77969	.77596	.77226	.76861	.76499	.76141
91	.80523	.80150	.79780	.79414	.79052	.78693	.78338	.77986	.77638	.77295
92	.81451	.81092	.80737	.80385	.80037	.79692	.79350	.79011	.78676	.78345
93	.82286	.81940	.81598	.81258	.80923	.80590	.80260	.79934	.79612	.79291
94	.83033	.82700	.82369	.82041	.81718	.81396	.81078	.80761	.80450	.80139
95	.83716	.83394	.83074	.82758	.82444	.82133	.81825	.81519	.81216	.80917
96	.84388	.84077	.83768	.83463	.83159	.82858	.82561	.82266	.81972	.81682
97	.85032	.84731	.84434	.84138	.83845	.83555	.83267	.82980	.82697	.82416
98	.85647	.85357	.85070	.84785	.84502	.84221	.83943	.83667	.83394	.83121
99	.86236	.85957	.85679	.85403	.85131	.84859	.84591	.84324	.84059	.83796
100	.86800	.86530	.86262	.85997	.85732	.85471	.85211	.84954	.84698	.84445
101	.87341	.87080	.86822	.86566	.86311	.86058	.85808	.85559	.85312	.85067
102	.87863	.87612	.87363	.87116	.86870	.86626	.86384	.86144	.85904	.85668
103	.88375	.88133	.87893	.87654	.87417	.87182	.86949	.86716	.86487	.86258
104	.88893	.88660	.88429	.88199	.87971	.87744	.87519	.87295	.87074	.86852
105	.89450	.89227	.89006	.88786	.88567	.88350	.88135	.87919	.87705	.87496
106	.90124	.89913	.89704	.89495	.89238	.89082	.88877	.88674	.88473	.88270
107	.91090	.90897	.90705	.90514	.90324	.90136	.89948	.89761	.89575	.89392
108	.92770	.92610	.92451	.92293	.92136	.91980	.91823	.91667	.91512	.91360
109	.96211	.96126	.96040	.95956	.95871	.95787	.95704	.95620	.95537	.95453

Remainder Interest Factors for Pooled Income Funds - FEMALES

x	Yearly Rate of Return									
	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.03292	.03232	.03177	.03128	.03082	.03041	.03002	.02967	.02935	.02905
1	.01242	.01179	.01123	.01072	.01025	.00983	.00944	.00908	.00876	.00846
2	.01180	.01115	.01056	.01002	.00953	.00909	.00868	.00831	.00797	.00765
3	.01181	.01113	.01050	.00994	.00942	.00895	.00853	.00814	.00778	.00745
4	.01205	.01133	.01068	.01008	.00954	.00904	.00859	.00818	.00780	.00746
5	.01243	.01167	.01098	.01035	.00973	.00926	.00878	.00835	.00795	.00758
6	.01291	.01211	.01138	.01072	.01012	.00957	.00907	.00860	.00818	.00779
7	.01351	.01267	.01191	.01121	.01057	.00999	.00946	.00897	.00852	.00811
8	.01421	.01332	.01252	.01178	.01111	.01050	.00993	.00942	.00894	.00850
9	.01502	.01408	.01323	.01246	.01175	.01110	.01050	.00996	.00945	.00899
10	.01592	.01494	.01404	.01323	.01248	.01179	.01116	.01058	.01005	.00956
11	.01692	.01589	.01495	.01408	.01329	.01257	.01190	.01129	.01072	.01020
12	.01802	.01693	.01593	.01502	.01419	.01343	.01272	.01207	.01148	.01093
13	.01918	.01803	.01699	.01603	.01515	.01434	.01360	.01291	.01228	.01170
14	.02040	.01920	.01810	.01709	.01616	.01531	.01453	.01380	.01313	.01251
15	.02169	.02042	.01927	.01820	.01723	.01633	.01550	.01473	.01402	.01337
16	.02301	.02169	.02047	.01935	.01832	.01737	.01650	.01569	.01494	.01425
17	.02440	.02301	.02173	.02055	.01946	.01846	.01754	.01668	.01589	.01516
18	.02584	.02438	.02304	.02180	.02066	.01960	.01863	.01772	.01689	.01611
19	.02737	.02583	.02442	.02312	.02191	.02080	.01977	.01882	.01794	.01711
20	.02899	.02738	.02590	.02453	.02326	.02209	.02100	.02000	.01906	.01820
21	.03072	.02903	.02748	.02603	.02470	.02347	.02232	.02126	.02027	.01936
22	.03256	.03079	.02916	.02764	.02624	.02494	.02373	.02261	.02157	.02060
23	.03453	.03267	.03095	.02936	.02789	.02652	.02524	.02406	.02296	.02194
24	.03663	.03468	.03288	.03121	.02966	.02822	.02688	.02563	.02447	.02339
25	.03888	.03684	.03495	.03319	.03156	.03005	.02863	.02732	.02609	.02495
26	.04128	.03914	.03716	.03532	.03360	.03201	.03053	.02914	.02785	.02664
27	.04383	.04160	.03952	.03759	.03579	.03412	.03255	.03109	.02973	.02845
28	.04657	.04423	.04206	.04003	.03814	.03638	.03474	.03320	.03177	.03042
29	.04947	.04703	.04475	.04263	.04065	.03880	.03707	.03545	.03394	.03252
30	.05256	.05001	.04763	.04540	.04333	.04139	.03957	.03787	.03627	.03478
31	.05582	.05316	.05067	.04834	.04616	.04413	.04222	.04043	.03876	.03718
32	.05928	.05650	.05390	.05147	.04919	.04705	.04505	.04317	.04141	.03975
33	.06295	.06005	.05733	.05479	.05240	.05017	.04807	.04609	.04424	.04249
34	.06684	.06381	.06098	.05832	.05583	.05348	.05128	.04921	.04727	.04543

Remainder Interest Factors for Pooled Income Funds - FEMALES

	Yearly Rate of Return									
	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
35	.07096	.06781	.06485	.06207	.05947	.05702	.05471	.05254	.05050	.04857
36	.07532	.07204	.06896	.06606	.06334	.06078	.05836	.05609	.05394	.05192
37	.07993	.07652	.07331	.07029	.06745	.06477	.06225	.05987	.05762	.05550
38	.08480	.08125	.07791	.07476	.07180	.06900	.06637	.06387	.06152	.05929
39	.08992	.08623	.08276	.07948	.07639	.07348	.07072	.06812	.06565	.06332
40	.09531	.09148	.08787	.08446	.08125	.07820	.07533	.07261	.07003	.06759
41	.10097	.09700	.09325	.08971	.08636	.08319	.08019	.07735	.07466	.07211
42	.10690	.10278	.09890	.09522	.09174	.08844	.08531	.08235	.07954	.07687
43	.11312	.10886	.10483	.10101	.09739	.09396	.09071	.08762	.08469	.08191
44	.11965	.11524	.11106	.10710	.10335	.09979	.09640	.09319	.09013	.08722
45	.12650	.12194	.11762	.11352	.10962	.10592	.10240	.09906	.09588	.09285
46	.13369	.12898	.12451	.12027	.11623	.11239	.10874	.10526	.10195	.09880
47	.14121	.13636	.13174	.12735	.12317	.11919	.11540	.11179	.10835	.10507
48	.14909	.14409	.13932	.13479	.13046	.12634	.12242	.11867	.11509	.11168
49	.15731	.15216	.14724	.14256	.13809	.13383	.12977	.12588	.12217	.11863
50	.16588	.16058	.15552	.15069	.14608	.14167	.13746	.13344	.12960	.12592
51	.17480	.16935	.16414	.15916	.15441	.14986	.14551	.14135	.13737	.13355
52	.18408	.17848	.17312	.16800	.16310	.15841	.15392	.14962	.14550	.14155
53	.19376	.18801	.18251	.17724	.17220	.16737	.16274	.15830	.15404	.14995
54	.20390	.19801	.19236	.18696	.18177	.17680	.17203	.16745	.16305	.15883
55	.21456	.20853	.20275	.19720	.19188	.18677	.18186	.17714	.17261	.16825
56	.22577	.21961	.21369	.20801	.20255	.19730	.19225	.18740	.18273	.17824
57	.23753	.23123	.22519	.21938	.21378	.20841	.20323	.19825	.19345	.18882
58	.24979	.24338	.23721	.23128	.22556	.22005	.21475	.20964	.20471	.19996
59	.26251	.25599	.24970	.24364	.23781	.23218	.22675	.22152	.21647	.21160
60	.27564	.26900	.26261	.25644	.25049	.24475	.23920	.23385	.22868	.22369
61	.28915	.28241	.27592	.26964	.26358	.25773	.25208	.24661	.24132	.23621
62	.30306	.29624	.28965	.28328	.27711	.27116	.26540	.25982	.25443	.24921
63	.31742	.31051	.30383	.29737	.29112	.28507	.27921	.27353	.26803	.26270
64	.33226	.32528	.31853	.31199	.30565	.29951	.29356	.28779	.28220	.27677
65	.34764	.34061	.33379	.32718	.32077	.31455	.30852	.30267	.29698	.29147
66	.36359	.35651	.34964	.34298	.33651	.33023	.32412	.31820	.31244	.30684
67	.38010	.37299	.36608	.35937	.35285	.34652	.34036	.33437	.32855	.32289
68	.39711	.38998	.38305	.37632	.36976	.36339	.35719	.35115	.34527	.33956
69	.41454	.40742	.40048	.39373	.38716	.38076	.37452	.36845	.36254	.35677

Remainder Interest Factors for Pooled Income Funds - FEMALES
Yearly Rate of Return

	8.2%	8.4%	8.6%	8.8%	9.	9.2%	9.4%	9.6%	9.8%	10%
70	.43234	.42523	.41830	.41155	.40497	.39856	.39231	.38621	.38027	.37448
71	.45050	.44342	.43651	.42978	.42321	.41680	.41055	.40444	.39849	.39267
72	.46902	.46199	.45513	.44843	.44188	.43549	.42925	.42315	.41720	.41138
73	.48787	.48090	.47410	.46744	.46094	.45459	.44837	.44230	.43636	.43055
74	.50698	.50009	.49336	.48677	.48033	.47402	.46786	.46182	.45591	.45013
75	.52628	.51949	.51285	.50634	.49997	.49374	.48763	.48165	.47579	.47005
76	.54583	.53915	.53262	.52621	.51994	.51379	.50776	.50184	.49605	.49037
77	.56565	.55911	.55270	.54642	.54025	.53421	.52828	.52246	.51674	.51115
78	.58560	.57922	.57296	.56681	.56078	.55485	.54904	.54332	.53772	.53220
79	.60545	.59923	.59313	.58713	.58125	.57546	.56977	.56418	.55869	.55329
80	.62497	.61894	.61301	.60718	.60144	.59580	.59026	.58481	.57945	.57418
81	.64397	.63802	.63227	.62661	.62104	.61556	.61017	.60486	.59963	.59449
82	.66202	.65636	.65079	.64530	.63990	.63458	.62934	.62417	.61909	.61408
83	.67961	.67415	.66876	.66345	.65822	.65306	.64798	.64297	.63804	.63317
84	.69720	.69193	.68674	.68162	.67657	.67160	.66669	.66185	.65708	.65237
85	.71536	.71033	.70536	.70046	.69562	.69085	.68614	.68150	.67691	.67238
86	.73263	.72782	.72308	.71839	.71377	.70920	.70469	.70024	.69583	.69149
87	.74885	.74427	.73974	.73527	.73085	.72648	.72217	.71791	.71369	.70954
88	.76403	.75967	.75535	.75109	.74687	.74270	.73858	.73451	.73049	.72650
89	.77811	.77395	.76984	.76578	.76175	.75778	.75385	.74996	.74611	.74230
90	.79100	.78704	.78312	.77924	.77540	.77161	.76785	.76414	.76045	.75682
91	.80265	.79887	.79512	.79142	.78776	.78413	.78053	.77698	.77346	.76998
92	.81300	.80938	.80580	.80226	.79875	.79527	.79183	.78842	.78504	.78170
93	.82209	.81862	.81518	.81177	.80840	.80507	.80175	.79848	.79524	.79202
94	.83005	.82671	.82340	.82012	.81688	.81365	.81047	.80730	.80418	.80107
95	.83716	.83394	.83074	.82758	.82444	.82133	.81825	.81519	.81216	.80917
96	.84388	.84077	.83768	.83463	.83159	.82858	.82561	.82266	.81972	.81682
97	.85032	.84731	.84434	.84138	.83845	.83555	.83267	.82980	.82697	.82416
98	.85647	.85357	.85070	.84785	.84502	.84221	.83943	.83667	.83394	.83121
99	.86236	.85957	.85679	.85403	.85131	.84859	.84591	.84324	.84059	.83796
100	.86800	.86530	.86262	.85997	.85732	.85471	.85211	.84954	.84698	.84445
101	.87341	.87080	.86822	.86566	.86311	.86058	.85808	.85559	.85312	.85067
102	.87863	.87612	.87363	.87116	.86870	.86626	.86384	.86144	.85904	.85668
103	.88375	.88133	.87893	.87654	.87417	.87182	.86949	.86716	.86487	.86258
104	.88893	.88660	.88429	.88199	.87971	.87744	.87519	.87295	.87074	.86852
105	.89450	.89227	.89006	.88786	.88567	.88350	.88135	.87919	.87705	.87496
106	.90124	.89913	.89704	.89495	.89288	.89082	.88877	.88674	.88473	.88270
107	.91090	.90897	.90705	.90514	.90324	.90136	.89948	.89761	.89575	.89392
108	.92770	.92610	.92451	.92293	.92136	.91980	.91823	.91667	.91512	.91360
109	.96211	.96126	.96040	.95956	.95871	.95787	.95704	.95620	.95537	.95453

pooled Income Fund
Sample provisions. Rev. Rul.

72-196

Section 642.—Special Rules for Credits and Deductions

26 CFR 1.642(c)-5: Definition of pooled income fund.

Sample provisions for inclusion in Declarations of Trust and Instruments of Transfer that may be used to satisfy section 642(c)(5) of the Code are set forth to serve as a guide in developing governing instruments for pooled income funds.

Rev. Rul. 72-196

SECTION 1.

The purpose of this Revenue Ruling is to set forth illustrative sample provisions for inclusion in a Declaration of Trust and an Instrument of Transfer that may be used to satisfy the requirements of section 642(c)(5) of the Internal Revenue Code of 1954 with respect to a pooled income fund.

These sample provisions, which are set forth in sections 3 through 10, assume the establishment of the Y Pooled Income Fund by the Declaration of Trust and a transfer of property to such fund pursuant to an Instrument of Transfer in which an income interest is retained for the lives of the donor and his spouse and an irrevocable remainder interest in such property is contributed to the Y Public Charity. The donor has retained the power to terminate by will the income interest for the life of his spouse.

SEC. 2.

.01 Section 1.642(c)-5(b) of the Income Tax Regulations sets forth specific requirements for qualification of a pooled income fund.

.02 By virtue of section 4947(a)(2) of the Code, a pooled income fund is subject to the governing instrument requirements of section 508(e) of the Code. For sample provisions of governing instruments meeting the requirements of section 508(e), see Rev. Rul. 70-270, C.B. 1970-1, 135, but note exception contained in section 4947(b)(3)(B) of the Code with respect to a pooled income fund. See also Rev. Rul. 72-103, I.R.B. 1972-10, 12, for a list of states that have enacted legislation pursuant to which the governing instruments of private foundations under the jurisdiction of such states are considered to have been amended as required by section 508(e) of the Code.

.03 Section 1.642(c)-5(a)(5)(iii) of the regulations provides that the term "governing instrument" means either the governing plan (referred to in this Revenue Ruling as the Declaration of Trust) under which the pooled income fund is established and administered or the Instrument of Transfer, as the context requires.

SEC. 3.

.01 Section 1.642(c)-5(b)(1) of the regulations requires that each donor must transfer property to a pooled income fund and contribute an irrevocable remainder interest in such property to or for the use of a public charity. Under this provision, a contingent remainder interest is not treated as an irrevocable remainder interest.

.02 The following is a sample provision for inclusion in a Declaration of

Trust which satisfies the requirement described in sec. 3.01:

Each donor transferring property to Y Pooled Income Fund shall contribute an irrevocable remainder interest in such property to or for the use of Y Public Charity.

.03 The following is a sample provision for inclusion in an Instrument of Transfer which satisfies the requirement described in sec. 3.01:

Upon the death of either the Donor or the Donor's wife, whichever is later, or upon the death of the Donor if the Donor exercises his power to terminate the life income interest upon his death, the trustee of Y Pooled Income Fund shall sever from the Fund an amount equal to the value of the remainder interest in the property upon which the income interest is based and transfer it to Y Public Charity.

SEC. 4.

.01 Section 1.642(c)-5(b)(2) of the regulations requires that each donor must retain for himself for life an income interest in the property transferred to the pooled income fund, or create an income interest in such property for the life of one or more beneficiaries, each of whom must be living at the time of the transfer of the property to the fund. The donor may retain the power exercisable only by will to revoke or terminate the income interest of any designated beneficiary other than the public charity. The governing instrument must specify at the time of the transfer the particular beneficiary or beneficiaries to whom the income is payable and the share of income distributable to each person so specified. No charitable contributions deduction is allowed to the donor for the value of an income interest of which the public charity is a beneficiary or for the amount of any income paid by the fund to such organization.

.02 The following is a sample provision for inclusion in a Declaration of Trust which satisfies the requirement described in sec. 4.01:

Each donor transferring property to Y Pooled Income Fund shall retain for himself for life an income interest in the property transferred, or create an income interest in such property for the life of one or more named beneficiaries, each of whom must be living at the time of the transfer of the property to the Fund by the donor. Such income interest shall be represented by units of participation in the Fund. In the event more than one beneficiary of the income interest is named, such beneficiaries may enjoy their shares of income concur-

rently, consecutively, or both concurrently and consecutively. Y Public Charity may also be designated as one of the beneficiaries of the income interest. The donor need not retain or create a life interest in all the income from the property transferred to the Fund provided any income not payable to an income beneficiary under the terms of the Instrument of Transfer is contributed to, and within the taxable year of the Fund in which it is received is paid to, Y Public Charity.

.03 The following is a sample provision for inclusion in an Instrument of Transfer which satisfies the requirement described in sec. 4.01:

The Donor hereby retains for himself for and during his life an income interest in the property transferred to Y Pooled Income Fund. In the event that Donor's wife (insert name) survives the Donor, there is hereby retained and created an income interest in such property to commence on the Donor's death for the Donor's wife for and during her life. However, the Donor hereby reserves the right to appoint and direct by will that the income interest retained or created in such property shall terminate upon his death, whether or not the Donor's wife survives the Donor. Such income interest shall consist of — units of participation in Y Pooled Income Fund, and payments of income thereon shall be made in accordance with the Declaration of Trust attached hereto.

SEC. 5.

.01 Section 1.642(c)-5(b)(3) of the regulations requires that the property transferred to a pooled income fund by a donor must be commingled with, and invested or reinvested with, other property transferred to the fund by other donors satisfying the requirements described in secs. 3.01 and 4.01. The governing instrument must contain a provision requiring compliance with this requirement on commingling and investing of property. A pooled income fund shall not be disqualified because any portion of its properties is invested or reinvested jointly with other properties, not a part of the pooled income fund, which are held by, or for the use of, the public charity which maintains the fund.

.02 The following is a sample provision for inclusion in a Declaration of Trust which satisfies the requirement described in sec. 5.01:

The property transferred to Y Pooled Income Fund by each donor must be commingled with, and invested or reinvested with, other property transferred to the Fund by other donors satisfying the requirements of this instrument and of section 642(c)(5)(A) of the Internal Revenue Code of 1954 or corresponding provision of any sub-

sequent Federal tax law. The Fund shall not include property transferred under arrangements other than those specified in this instrument and section 642(c)(5) of the Internal Revenue Code of 1954 or corresponding provision of any subsequent Federal tax law. All or any portion of the Fund may, however, be invested or reinvested jointly with other properties, not a part of the Fund, which are held by, or for the use of, Y Public Charity. When such joint investment or reinvestment occurs, detailed accounting records shall be maintained by the trustee of the Fund specifically identifying the portion of the total fund which is owned by Y Pooled Income Fund and the income earned by, and attributable to, such portion.

SEC. 6.

.01 Section 1.642(c)-5(b)(4) of the regulations prohibits a pooled income fund from accepting from a donor, or investing in, any securities the income from which is exempt from Federal income tax. The governing instrument of the pooled income fund must contain specific prohibitions against accepting or investing in such securities.

.02 The following is a sample provision for inclusion in a Declaration of Trust which satisfies the requirement described in sec. 6.01:

The property transferred to Y Pooled Income Fund by any donor shall not include any securities the income from which is exempt from the taxes imposed by Subtitle A of the Internal Revenue Code of 1954 or corresponding provision of any subsequent Federal tax law, and the trustee of the Fund shall not accept or invest in any such security as part of the Fund.

SEC. 7.

.01 Section 1.642(c)-5(b)(5) of the regulations requires that the pooled income fund must be maintained by the same public charity to or for the use of which the irrevocable remainder interest is contributed. The requirement of maintenance will be satisfied where the public charity exercises control directly or indirectly over the pooled income fund.

.02 The following is a sample provision for inclusion in a Declaration of Trust which satisfies the requirement described in sec. 7.01:

Y Public Charity shall always maintain Y Pooled Income Fund or exercise control, directly or indirectly, over the Fund. Y Public Charity may resign as Trustee of the Fund and designate a new Trustee or Trustees of the Fund. Y Public Charity retains the power to remove such Trustee or Trustees and to designate a new Trustee or Trustees.

SEC. 8.

.01 Section 1.642(c)-5(b)(6) of the regulations prohibits a pooled income fund from having as a trustee a donor to the fund or a beneficiary (other than the public charity to or for the use of which the remainder interest is transferred) of an income interest in any property transferred to the fund. It is also required that the governing instrument contain such a prohibition. The fact that the donor of property to the fund, or a beneficiary of the fund, is a trustee, officer, director, or other official of the public charity to or for the use of which the remainder interest is contributed ordinarily will not prevent the fund from complying with this prohibition.

.02 The following is a sample provision for inclusion in a Declaration of Trust which satisfies the requirement described in sec. 8.01:

Y Pooled Income Fund shall not have as a Trustee a donor to the Fund or a beneficiary (other than Y Public Charity) of an income interest in any property transferred to the Fund. No donor or beneficiary (other than Y Public Charity) shall have, directly or indirectly, general responsibilities with respect to the Fund which are ordinarily exercised by a Trustee.

SEC. 9.

.01 Section 1.642(c)-5(b)(7) of the regulations contains the following requirements with respect to the income of a beneficiary of a pooled income fund:

(1) Each beneficiary entitled to income of any taxable year of the fund must receive such income in an amount determined by the rate of return earned by the fund for such year with respect to his income interest.

(2) On each transfer of property to the fund by a donor one or more units of participation in the fund must be assigned to the beneficiary or beneficiaries of the income interest in such property, determined by dividing the fair market value of the property by the fair market value of a unit of participation at the time of the transfer.

(3) The fair market value of a unit of participation is to be determined by dividing the fair market value of all property in the fund by the number of units of participation in the fund at the time of the transfer.

(4) If a transfer of property to a fund occurs on other than a determination date, the number of units of participation assigned to the income interest in such property may be determined by using the fair market value of the property in the fund on the determination date immediately preceding the date of transfer, with appropriate adjustments on the next succeeding determination date.

(5) A determination date is each day of the taxable year of the fund on which there is a valuation of property in the fund, being the first day of such year and at least 3 other days, with no more than 3 calendar months between two consecutive determination dates.

(6) The share of income allocated to each unit of participation is to be determined by dividing the income of the fund for the taxable year by the outstanding number of units in the fund at the end of such year, with appropriate adjustment for units outstanding during only a part of such year.

(7) The governing instrument of the fund shall direct the trustee to distribute income currently or within the first 65 days following the close of the taxable year in which the income is earned.

(8) The governing instrument shall provide that the income interest of any designated beneficiary shall either terminate with the last regular payment which was made before the death of the beneficiary or be prorated to the date of his death.

(9) The term "income" has the same meaning as it does under section 643(b) of the Code and the regulations thereunder.

.02 The following are sample provisions for inclusion in a Declaration of Trust which satisfy the requirements described in sec. 9.01:

The taxable year of Y Pooled Income Fund shall be the calendar year. To each beneficiary entitled to income of any taxable year of the Fund, the trustee of the Fund shall pay such income in the amount determined by the rate of return earned by the Fund for such year with respect to the beneficiary's income interest, payment to be made at least once in the taxable year in which the income is earned. Until the trustee determines that payments shall be made more or less frequently or at other

times he shall make income payments to the beneficiary or beneficiaries entitled thereto in four quarterly payments on or about March 31, June 30, September 30, and December 31, of each year. An adjusting payment, if necessary, will be made during the taxable year or within the first 65 days following its close to bring the total payment to the actual income to which the beneficiary or beneficiaries are entitled for that year.

On each transfer of property by a donor to the Fund, there shall be assigned to the beneficiary or beneficiaries of the income interest retained or created in such property the number of units of participation equal to the number obtained by dividing the fair market value of the property transferred by the fair market value of a unit in the Fund immediately before such transfer. The fair market value of a unit in the Fund immediately before the transfer shall be determined by dividing the fair market value of all property in the Fund at such time by the number of units then in the Fund. All units in the Fund shall always have equal value.

If a transfer of property to the Fund by a donor occurs on other than a determination date, the number of units of participation assigned to the income interest in such property shall be determined by using the average fair market value of the property in the Fund immediately before the transfer, which shall be deemed to be the average of the fair market values of the property in the Fund on the determination dates immediately preceding and succeeding the date of transfer. For the purpose of determining such average fair market value, the property transferred by the donor and any other property transferred to the Fund between such preceding and succeeding dates, or on such succeeding date, shall be excluded. The fair market value of a unit in the Fund immediately before the transfer shall be determined by dividing the average fair market value of the property in the Fund at such time by the number of units then in the Fund.

A determination date means each day within the taxable year of the Fund on which a valuation is made of the property in the Fund. The property of the Fund shall be valued on January 1, April 1, July 1, and October 1 of each year.

The amount of income allocated to each unit of participation in the Fund shall be determined by dividing the income of the Fund for the taxable year by the outstanding number of units in the Fund at the end of such year, except that income shall be allocated to units outstanding during only part of such year by taking into consideration the period of time such units are outstanding during such year.

For purposes of this trust, the term "income" has the same meaning as it does under section 643(b) of the Internal Revenue Code of 1954, or corresponding provision of any subsequent Federal tax law, and the regulations thereunder.

The income interest of any beneficiary of the Fund shall terminate with the last regular payment of income which was made before the death of the beneficiary. The trustee of the Fund shall not be required to prorate any income payment to the date of the beneficiary's death.

SEC. 10.

.01 Section 1.642(c)-5(b)(8) of the regulations provides that, upon the termination of the income interest retained or created by any donor, the trustee of the pooled income fund shall sever from the fund an amount equal to the value at such time of the remainder interest in the property upon which the income interest is based. The value of the remainder interest shall be either (1) its value as of the determination date next succeeding the termination of the income interest or (2) its value as of the date on which the last regular payment was made before the death of the beneficiary if the income interest is terminated on such payment date.

.02 The following is a sample provision for inclusion in a Declaration of Trust which satisfies the requirement described in sec. 10.01:

Upon the termination of the income interest of any designated beneficiary or beneficiaries, the trustee of Y Pooled Income Fund shall sever from the Fund an amount equal to the value of the remainder interest in the property upon which the income interest is based. The value of the remainder interest for such purpose shall be its value as of the date on which the last regular payment was made before the death of the beneficiary. The amount so severed from the fund shall be paid to Y Public Charity.

SEC. 11.

.01 The sample provisions in sections 3 through 10 are set forth merely as a guide in developing governing instruments for specific pooled income funds and in no way preclude the use of other provisions conforming to the requirements of section 642(c)(5) of the Code and the regulations thereunder.

.02 Provisions corresponding to these sample provisions will be accepted by the Internal Revenue Service in the absence of any showing that they are not enforceable under applicable local law.

SEC. 12.

Requests for rulings on declarations of trust and instruments of transfer should be submitted in compliance with the general procedures contained in Revenue Procedure 72-3, I.R.B. 1972-1, 9, pertaining to the issuance of rulings, and should be addressed to the Assistant Commissioner (Technical), Attention: T:PS:T (T:I:I), Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C., 20224.

POOLED INCOME FUND GOVERNING INSTRUMENT

Shortly after the passage of the Tax Reform Act of 1969 and publication of the earliest Regulations, governing instruments were submitted to the Internal Revenue Service by John Holt Myers, Esq., Counsel for the American Council on Education, with a request for approval as standard forms. The Service declined to approve any standard instruments but chose rather to issue sample provisions which satisfied the requirements of the Internal Revenue Code. (Sample provisions for a Pooled Income Fund are given in Rev. Rule 72-196, page 47). However, private letter rulings have been issued to a number of institutions whose governing instruments were substantially identical to those submitted to the A.C.E. While other institutions may not formally rely on private letter rulings, it is felt that institutions which use substantially identical instruments may do so with confidence that the requirements of the applicable sections of the Internal Revenue Code and regulations have been met.

Unfortunately, a number of new Rulings have been issued in recent years (cf. the compilation of such Rulings in the final section of this Guide). Institutions may, therefore, want to seek their own private rulings, and as an aid to this end there follows on page 55 such a request and ruling made available by Dartmouth College.

There is no guarantee that this or other instruments in this Guide will meet all the requirements of local trust law. Under no circumstances should any instrument be used before the institution has attained a formal written opinion of counsel that it conforms to the requirements of local law.

Three points worth noting:

1. There is no theoretical limit on the number of life beneficiaries.

Most institutions limit to two except in extraordinary circumstances.

2. Income beneficiaries must be persons who are alive and ascertainable at the time of the transfer of property to the trust.

3. In the case of a Pooled Income Fund Trust, the income interest retained must be for the life or lives of the beneficiaries.

IRS PRIVATE LETTER RULING - POOLED INCOME FUND

In view of the great dependency of donors on the donee institution to provide a pooled income fund governing instrument which conforms in every particular to the requirements of the law and its interpretation by the Internal Revenue Service, it seems almost imperative for the prudent institution to seek a private letter ruling qualifying each separate pooled fund.

It is emphasized that reliance should not be placed on the Governing Instruments and Agreements included in this Guide, even though each of them has been scrutinized and approved by the Service.

As an aid to legal counsel in requesting such a ruling, there is included here a request prepared for Dartmouth College by John Holt Myers of Williams, Myers and Quiggle. Also included is the ruling issued in response by the IRS.

WILLIAMS, MYERS AND QUIGGLE
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WILLIAM M WILLIAMS
"1921-1932"
EDMUND B QUIGGLE
"1921-1935"
PAUL FORREST MYERS
"1921-1965"

October 13, 1976

Assistant Commissioner (Technical)
Internal Revenue Service
1111 Constitution Avenue, N. W.
Washington, D. C. 20224

Attention: T:PS:T(T:I:I)

Re: Dartmouth College Old Pine
Pooled Income Fund

Dear Sir:

Rulings as hereinafter set forth are requested on behalf of the Trustees of Dartmouth College with respect to the status under Section 642(c)(5) of the Internal Revenue Code of the Dartmouth College Old Pine Pooled Income Fund. Dartmouth College is an educational organization described in I.R.C. Section 170(b)(1)(A)(ii), and, therefore, a public charity within the meaning of Regs. §1.642(c)-5(a)(5)(iv). Its identification number is 02-222-111N.

The Dartmouth College Old Pine Pooled Income Fund (the "Fund") was started on January 2, 1976. A copy of the governing instruments consisting of the Declaration of Trust and the Instrument of Transfer (Two Lives) are enclosed.

Under the terms outlined in the governing instruments, the College receives irrevocable remainder interests in all property transferred to the Fund by donors. The donors retain an income interest in such property for their lives or create such an interest for the lives of other designated beneficiaries living at the time of the respective transfers. The donors retain the right to terminate by will the income interest of any designated beneficiaries prior to the time such beneficiaries become entitled to receive income with respect to such interest (thereby accelerating the transfer of the assets representing the remainder interest from the Fund to the College).

All of the net income of the Fund will be distributed each year, on a quarterly basis, to the holders of the income interests based on the number of units of participation in the Fund assigned to each holder. The allocation of the Fund's income to beneficiaries is patterned after the "unit plan" type set forth in Regs. §1.642(c)-5(c)(2)(i).

Property transferred to the Fund will be commingled and invested or reinvested with all other property transferred to the Fund. Upon the termination of an income interest, an amount equal to the value of the units of participation assigned to such interest will be severed from the Fund and transferred to the College.

As indicated in Paragraph Four of the Declaration of Trust, all or a portion of the Pool may be invested jointly with other properties held by or for the use of the College. As required by Paragraph Four, detailed accounting records are maintained specifically identifying interests in the Pool and the income earned by, and attributable to, such interests.

As set forth in Paragraph Five of the Declaration of Trust, the Fund is prohibited from accepting gifts of securities, the income from which is exempt from tax under subtitle A of the Internal Revenue Code. In addition, the College is prohibited from investing in any such security as part of the Pool.

The Dartmouth College Old Pine Pooled Income Fund Trust Agreement and Instrument of Transfer are in accord with Revenue Ruling 72-196, 1972-1 C.B. 194. Compliance with the Ruling is demonstrated as follows:

- Sec. 3.02 - See Paragraph 2 of the Declaration of Trust;
- Sec. 3.03 - See Paragraph 6 of the Instrument of Transfer;
- Sec. 4.02 - See Paragraph 3 of the Declaration of Trust;
- Sec. 4.03 - See Paragraph 5 of the Instrument of Transfer;
- Sec. 5.02 - See Paragraph 4 of the Declaration of Trust;
- Sec. 6.02 - See Paragraph 5 of the Declaration of Trust;
- Sec. 7.02 - See Paragraph 6 of the Declaration of Trust;
- Sec. 8.02 - See Paragraph 7 of the Declaration of Trust;
- Sec. 9.02 - See Paragraphs 8, 11, 12, 11, 14, and 10, in that order, of the Declaration of Trust;
- Sec. 10.02 - See Paragraph 9 of the Declaration of Trust.

Rulings Requested

Rulings are respectfully requested as follows:

1. That the Fund will qualify as a Pooled Income Fund under Section 642(c)(5) of the Internal Revenue Code.

2. That since the Fund is prohibited from including tax exempt securities, donors are entitled to compute their deductions on the basis of the highest yearly rate of return earned by the Fund in which they invested for the three taxable years immediately preceding the year in which the transfer of property was made. Regs. §1.642(c)-7(d)(2).

October 13, 1976

3. That the commingling of the assets of the Fund with other properties of the College including all or a portion of any fund held by or for the use of the College will not disqualify the Fund, provided detailed records are maintained as required in the Declaration of Trust and that such commingling will not constitute an association taxable as a corporation. Regs. §1.642(c)-(5)(b)(3).

4. That a donor to the College will be entitled to a charitable deduction for the gift of the remainder interest to the College. Regs. §1.642(c)-5(a)(4); Regs. §1.170A-8(b).

5. That no gain or loss be recognized to the donor as result of the transfer of property to the Fund unless, in addition to creating or retaining a life interest therein, he receives property from the Fund or transfers property which is subject to an indebtedness. Regs. §1.642(c)-5(a)(3).

The issues pending herein are not pending before any field office of the Internal Revenue Service. If a decision on these rulings requested would be contemplated which would be inconsistent with the requests, the undersigned respectfully requests a conference before any decision is actually made. Please address your reply and ruling letter to the undersigned in accordance with the enclosed Power of Attorney. If information is desired please telephone the undersigned at (202) 333-5900.

Respectfully submitted,

WILLIAMS, MYERS AND QUIGGLE

By

Enclosure

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Trustees of Dartmouth College
Hanover, New Hampshire 03755

EIN: 02-0222-111N DO 02

In re: Dartmouth College Old
Pine Pooled Income Fund

Person to Contact: Raymond M. Tully

Telephone Number: (202) 566-4543

Refer Reply to: T:I:I:3:2

Date: 7 FEB 1977

Gentlemen:

This is in reply to a letter dated December 15, 1976, and prior correspondence submitted on your behalf by Mr. Robert H. Meyers. Rulings are requested regarding the qualification of the Dartmouth College Old Pine Pooled Income Fund ("Pool") as a pooled income fund under section 642(c)(5) of the Internal Revenue Code and the qualification of donations to the Pool as contributions within the meaning of sections 170, 2055, 2106 and 2522.

Dartmouth College is an organization described in section 170(b)(1)(A)(ii) of the Code.

A copy of the Pool's Declaration of Trust ("Declaration") that will be amended according to the letter of December 15, 1976, and a copy of the Trust Agreement ("Agreement") (Two-Lives) which incorporates the terms of the Declaration by reference were submitted with the request. The provisions of these documents are incorporated herein by reference.

Based on the information and documents submitted, we conclude that the provisions of the governing instrument (Declaration, as it will be amended, and Agreement) will meet the requirements of a pooled income fund as defined in section 642(c)(5) of the Code, provided:

- (1) The Pool is operated strictly in accordance with the terms of the governing instrument.
- (2) A uniform instrument of transfer is used to accept gifts from donors which in form is basically identical to the Agreement submitted and herein approved. The instrument of transfer will be considered basically identical in form where the only substitutions are as follows:

Trustees of Dartmouth College

- (a) Names and addresses of donors and beneficiaries.
- (b) Date of execution.
- (c) Description and fair market value of the property transferred to the Pool.
- (d) Designation of enjoyment of income by beneficiaries, e.g. whether concurrently, consecutively or both concurrently and consecutively.
- (e) Reservation by the donor of the right to revoke by will the creation of the consecutive income interest.
- (f) The name by which the gift is designated on the books of the College.
- (g) The particular purpose for which the remainder interest will be used by the College following its severance from the Pool.

Subject to the foregoing we conclude that:

- (1) The commingling of the assets of the Pool with other properties of the College including all or a portion of any fund held by or for the use of the College will not disqualify the Pool, provided detailed records are maintained as required in the Declaration of Trust and such commingling will not constitute an association taxable as a corporation.

Trustees of Dartmouth College

- (2) Contributions to the Pool will be deductible as charitable contributions to a public charity in the manner and to the extent provided by section 170 of the Code for Federal income tax purposes. (See, however, the last sentence of section 1.642(c)-5(b)(2) of the Income Tax Regulations.)
- (3) No gain or loss shall be recognized by a donor on the transfer of property to the Pool, provided the donor does not receive property from the Pool or transfer property to the Pool which is subject to an indebtedness. (See section 1.642(c)-5(a)(3) of the regulations.)
- (4) The Pool will be a pooled income fund for purposes of section 2055(e)(2)(A) and 2106(a)(2)(E) of the Code for Federal estate tax purposes and section 2522(c)(2)(A) of the Code for Federal gift tax purposes.

In addition, since the Pool will be treated as a split interest trust, the provisions of section 4947(a)(2) of the Code will apply.

No opinion is expressed as to the Federal income tax consequences of the formation or operation of the Pool under the provisions of any other section of the Code. Furthermore, no opinion is expressed as to any amendments that may be made under the governing instrument.

A copy of this letter should be attached to the first return filed for the Pool. A copy is enclosed for this purpose.

Sincerely yours,

Mario E. Lombardo

Chief, Individual Income Tax Branch

Enclosure

63

EXCELLENCE COLLEGE POOLED INCOME FUND

TRUST AGREEMENT - TWO LIVES

SAMPLE FORM ONLY. COUNSEL SHOULD BE CONSULTED PRIOR TO DRAFTING ANY INSTRUMENT.

Comment: This instrument will be executed by the College and individual donors for each separate fund invested in the Pool when there are two income beneficiaries. The language should be modified where appropriate when the number of beneficiaries is one or more than two.

This Trust Agreement is made and entered into in duplicate this _____ day of _____, 19____, between _____ of _____, County of _____, State of _____ (hereinafter called the "Donor"), and Excellence College, a corporation duly existing under the laws of the State of _____ and located at _____ in said State (hereinafter called the "College").

1. The College acknowledges receipt of the property listed on Exhibit A attached hereto and having a fair market value as of the date hereof of \$_____, as an irrevocable gift from the Donor, which property and all additions thereto shall be held and administered IN TRUST as follows.

Comment: Required by Regulation §1.642(c)-5(b)(1).

2. This gift shall be designated on the books and records of the College as the _____ Fund (hereinafter called the "Fund").

Comment: Opinions vary as to whether or not funds subject to life income and held by the institution as trustee should be reflected on the books of the institution.

If they are so shown, it should be clearly indicated in any published financial reports, by means of explanatory note or otherwise, that the assets of such funds are held in a fiduciary capacity.

3. The Donor or any other person may at any time make additional contributions to the Fund by gift or bequest with the consent of the College.

Comment: An additional gift by bequest can be made by means of a testamentary pour-over provision. If the initial gift is by bequest, the language on page 87 should be considered.

4. The Fund shall become a part of the EXCELLENCE COLLEGE POOLED INCOME FUND and be held, managed, and distributed in accordance with the DECLARATION OF TRUST OF THE EXCELLENCE COLLEGE POOLED INCOME FUND having an effective date of _____ which is attached hereto and hereby incorporated by reference.

Comment: Each donor should receive a copy of the Declaration of Trust as part of the governing instrument.

5. The Donor hereby retains for himself for and during his life an income interest in the Fund. In the event that the Donor's wife, _____ (hereinafter called the "Donor's wife") survives the Donor, there is hereby retained and created an income interest in the Fund to commence on the Donor's death for the Donor's wife for and during her life. However, the Donor hereby reserves the right to appoint and direct by his Will, but only by express reference to this agreement, that all income interests retained or created in the Fund shall terminate upon his death,

whether or not the Donor's wife survives the Donor. Until the College determines that payments shall be made more or less frequently or at other times, the College shall make income payments to the Donor (and then to the Donor's wife if the Donor fails to exercise the above power of appointment) in four quarterly payments on or about March 31, June 30, September 30, and December 31 with an adjusting payment being made, if necessary, during the taxable year or within the first sixty-five days following its close to bring the total payment to the actual income to which he was entitled for that year.

Comment: It is assumed throughout that the donor will be the primary life beneficiary and that the donor's wife will be the second beneficiary, if there is one. Obviously, there will be exceptions to both assumptions.

Regulation §1.642(c)-5(b)(2) specifically permits the use of the power of appointment device. In practically no instance will the power be exercised; its purpose is to forestall the imposition of a gift tax on the actuarial value of the life income interest of the second beneficiary by rendering the gift incomplete until the donor's death. Some internal control must be set up to verify that a deceased donor has not exercised the power before payments to the second beneficiary are commenced.

In a one-life instrument, the second and third sentences and the portion of the fourth sentence enclosed in parentheses should be omitted.

6. Upon the death of the survivor of the Donor and the Donor's wife (or upon the death of the Donor if the Donor exercises the above power of appointment), the College shall sever from the EXCELLENCE COLLEGE POOLED INCOME FUND an amount equal to the value of the property upon which the income interest is based and transfer it to the College . . . [add (a), (b) or (c) as appropriate].

(a) [Principal and Income Unrestricted] to be used in such manner as the trustees thereof may direct.

(b) [Permanent Fund - Income Unrestricted] to constitute an endowment fund which shall to be known as the _____ Fund, such fund to be kept invested by the College and the annual income thereof used in such manner as the trustees thereof may direct.

(c) [Permanent Fund - Income Restricted] to constitute an endowment fund which shall to be known as the _____ Fund, such fund to be kept invested by the College and the annual income thereof used to (state purpose - for example, faculty salaries, scholarships, etc.).

Comment: Severance is required by Regulation §1.642(c)-5(b)(8). See also Comment on paragraph 9 of the governing instrument.

If a one-life instrument, paragraph 6 should obviously read "Upon the death of the donor, the College shall sever, etc."

The ultimate purpose of the gift should be clearly spelled out. The instrument should not, for example, specify only that the fund shall be used as the donor shall later direct. In this situation, the I.R.S. could argue that the donor might later direct a non-exempt use or one which the trustees of the institution could not accept.

Actually, neither the Code nor the Regulations require that the language designating the ultimate purpose be included, and without it, presumably both income and principal would be unrestricted.

7. The College shall have the power, acting alone, to amend this agreement in any manner necessary for the sole purpose of insuring that the Fund qualifies as a gift to a Pooled Income Fund within the meaning of Section 642(c)(5) of the Internal Revenue Code of 1954 as amended and the regulations thereunder.

8. Anything herein to the contrary notwithstanding, the assets of the trust estate shall not be subject to claim for any Federal, state or other estate, inheritance or succession taxes or duties which may be assessed against the estate of the Donor or against any beneficiary hereunder, and the Donor agrees to make no inconsistent provision in his Will.

Comment: Suggested for inclusion where a donor retains an interest for his life and provides for a survivorship interest in his wife and/or others.

9. This Trust Agreement shall be effective only upon execution by the College at its offices in _____.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto in duplicate the day, month and year hereinabove first written.

In the Presence of:

(Donor) _____ (SEAL)

EXCELLENCE COLLEGE

By _____ (SEAL)

Name:

Title:

Comment: If Donor retains an interest for life and provides for a survivorship interest in his wife or others, consideration should be given to execution of the document in the manner of a will with such additional witnesses as are required by the law of the jurisdiction. Further consideration should be given to having the signature of the Donor and the trustee acknowledged in the form meeting the requirements of the law of the jurisdiction.

DECLARATION OF TRUST

EXCELLENCE COLLEGE POOLED INCOME FUND

SAMPLE FORM ONLY. COUNSEL SHOULD BE CONSULTED PRIOR TO DRAFTING ANY INSTRUMENT.

Comment: This instrument is executed only once, usually by the chief financial officer of the institution, as a unilateral declaration of trust, covering the entire pool and all funds invested therein. Each donor should receive a conformed copy with his individual trust instrument.

WHEREAS, Excellence College, a corporation duly existing under the laws of the State of _____ and located at _____ in said State (hereinafter called the "College") desires to establish a pooled income fund meeting the requirements of Section 642(c)(5) of the Internal Revenue Code of 1954, as amended, and the Internal Revenue Service Regulations Section 1.642(c)(5) thereunder (hereinafter, together with any subsequent amendments or corresponding provisions of any subsequent Federal tax law, collectively called the "Code");

NOW THEREFORE, the College hereby declares that it shall from the date hereof hold, manage and distribute any and all property transferred to and accepted by the College as part of this pooled income fund, IN TRUST, as follows:

Comment: The words IN TRUST are the foundation of the legal relationship between the institution and the life income beneficiaries. It should be perfectly clear that the assets of the pooled fund are not the assets of the institution.

1. *Name of the Fund.* This fund shall henceforth be known as THE EXCELLENCE COLLEGE POOLED INCOME FUND (hereinafter called the "Pool").

2. *Gift of remainder Interest.* Each donor transferring property to the Pool shall contribute an irrevocable remainder interest in such property to the College.

*Comment: Required by Regulation #1.642(c)-5(b)(1)
If the fund is maintained by a national organization in whole or in part for the benefit of its local organizations, chapters or auxiliary bodies, add the following "or one or more of its _____ designated by the Donor, provided that said _____ qualifies as a public charity under Section 509 of the said Code."*

The property transferred to the Pool, hereinafter sometimes called the "Participating Gift," includes the initial gift by a donor and any subsequent gifts with identical provisions for life income beneficiaries and the same designation or purpose of the gift. A donor may make additional gifts of property to the Pool with different life income beneficiaries or different designated uses of the remainder by the Donee, but such transfers will be treated as separate Participating Gifts.

3. *Retention of Life Income Interest.* Each donor transferring property to the Pool shall retain for himself an income interest in the property transferred, or create an income interest in such property for the life of one or more named beneficiaries, each of whom must be living at the time of the transfer of the property to the Pool by the donor. In the event more than one beneficiary of the income interest is named, such beneficiaries may enjoy their shares of income concurrently and/or consecutively. The College may also be designated as one of the beneficiaries of the income interest. The donor need not retain or create a life interest in all the income from the property transferred to the Pool provided any income not payable to an income beneficiary is contributed to and within the taxable year in which it is received is paid to

the College. The donor may retain the power, exercisable only by Will, to revoke or terminate the income interest of any designated beneficiary other than that of the College.

Comment: Required by Regulation 81.642(c)-5(b)(2).

4. *Commingleing of Property.* The property transferred to the Pool by each donor must be commingled with, and invested or reinvested with, other property transferred to the Pool by other donors satisfying the requirements of this instrument and of provisions of the Internal Revenue Code of 1954, as now and hereafter amended, governing Pooled Income Funds. The Pool shall not include property transferred under arrangements other than those specified in this instrument and satisfying the said provisions of the Internal Revenue Code. All or any portion of the Pool may, however, be invested or reinvested jointly with other properties, not a part of this Pool, which are held by or for the use of the College and which are its absolute property. When such joint investment or reinvestment occurs, detailed accounting records shall be maintained specifically identifying the portions of the Pool and the income earned by, and attributable to, such portions.

Comment: Required by Regulation 81.642(c)-5(b)(3). The Regulation also specifies that "A bank which serves as trustee of more than one pooled income fund may maintain a common trust fund to which Section 648 applies for the collective investment and reinvestment of moneys of such funds."

5. *Prohibition Against Exempt Securities.* The property transferred to the Pool by any donor shall not include any securities, the income from which is exempt from tax under Subtitle A of the Internal Revenue Code of 1954, and the College shall not accept or invest in any such security as part of the Pool.

Comment: Required by Regulation §1.642(c)-5(b)(4).

6. *Maintenance by College.* The College shall always maintain the Pool or exercise control, directly or indirectly, over the Pool. The College may resign as trustee and designate a new trustee or trustees so long as it retains the power to remove the trustee or trustees and to designate a new trustee or trustees.

Comment: Required by Regulation §1.642(c)-5(b)(5). It is this Section which specifically permits the use of a bank or other entity, other than the institution itself, as trustee.

7. *Prohibition Against Donor or Beneficiary Serving as Trustee.*

The Pool shall not have as trustee a donor to the Pool or a beneficiary (other than the College) of an income interest in any property transferred to the Pool. No donor or beneficiary (other than the College) shall have, directly or indirectly, general responsibilities with respect to the Pool which are ordinarily exercised by a trustee.

Comment: Required by Regulation §1.642(c)-5(b)(6). The regulation states that "The fact that a donor of property to the fund, or a beneficiary of the fund, is a trustee, officer, or director or other official of the public charity to or for the use of which the remainder interest is contributed ordinarily will not prevent the fund from meeting the requirements of Section 642(c)(5) and this paragraph." (Emphasis added) This means that a trustee or employee of your institution may contribute to your pooled fund unless he or she as an individual (and not, for example, as a member of a bona fide investment committee of the board) exercises actual control over the investment policy of the pooled fund.

8. *Taxable Year - Income of Beneficiary to be Based on Rate of Return of Pool.* The taxable year of the Pool shall be the calendar year. The College shall pay to each beneficiary entitled to income of any taxable year of the Pool, such income in the amount determined by the rate of return earned by the Pool for such taxable year with respect to his income interest, computed as provided below, at least once in the taxable year in which the income is earned. Until the College determines that payments shall be made more or less frequently or at other times, the College shall make income payments to the beneficiary or beneficiaries entitled thereto in four quarterly payments on or about March 31, June 30, September 30, and December 31, of the taxable year of the Pool. An adjusting payment, if necessary, will be made during the taxable year or within the first sixty-five days following its close to bring the total payment to the actual income to which the beneficiary or beneficiaries were entitled for that year.

Comment: Required by Regulation 81.642(c)-5(b)(7). The taxable year of the Pool need not be the calendar year; it could, for example, be the fiscal year of the institution. Once an election of a taxable year is made, however, it is difficult to change it. Most institutions will find that a calendar year, which coincides with the tax year of the beneficiaries, will be the most convenient taxable year for the pool from an administrative point of view and least productive of confusion for the beneficiaries.

9. *Termination of Life Income Interest.* Upon the termination of the income interest of the designated beneficiary or beneficiaries, the College shall sever from the Pool an amount equal to the value of the property upon which the income interest is based. The value of the property for such purpose shall be the value as of the date on which the last regular payment was made before the death of the beneficiary as provided in Section 10 hereof. The amount so severed

from the fund must either be paid to or retained for the use of the College for the uses and purposes designated by the Donor in the instrument whereby his gift is made, except that in the event the College is not then an organization described in clauses (i) through (vi) of §170(b)(1)(A) of the said Code, such amount shall be transferred to or for the use of an organization or organizations which are described in the said clauses (i) through (vi) of §170(b)(1)(A), as selected by the College, as Trustee, in its sole discretion, provided such organization is also an entity described in Section 2055 (a) or 2522 (a) or (b) of said Code.

Comment: Required by Regulation §1.642(c)-5(b)(8). This must be clearly reflected on both sides of the balance sheet. Precisely how the transfer will be reflected will depend upon whether pooled life income funds are invested with other endowment funds of the institution as permitted by paragraph 4 above.

10. *Proration Not Required.* The College shall not be obligated to prorate periodic payments between the estate of a deceased beneficiary and a surviving beneficiary or beneficiaries. The income interest of any beneficiary shall terminate with the regular periodic payment next preceding the date of such beneficiary's death.

Comment: Regulation §1.642(c)-5(b)(7) permits a choice; the institution may choose either to prorate or to adopt the alternative specified here. The latter simplest to administer, but on this point, counsel should be certain that such an arrangement is permissible under local law (ordinarily, it will be).

11. *Unit Plan of Allocation of Income to Beneficiary.* Every income interest retained or created in property transferred to the Pool shall be

assigned a proportionate share of the annual income earned by the Pool, such share or units of participation being based on the fair market value of such property on the date of transfer as provided in this paragraph. On each transfer of property by a donor to the Pool, there shall be assigned to the beneficiary or beneficiaries of the income interest the number of units of participation equal to the number obtained by dividing the fair market value of the property transferred by the fair market value of a unit in the Pool immediately before such transfer. The fair market value of a unit in the Pool immediately before the transfer shall be determined by dividing the fair market value of all property in the Pool at such time by the number of units then in the Pool. All units in the Pool shall always have equal value. The amount of income allocated to each unit of participation shall be determined by dividing the income of the Pool for the taxable year by the outstanding number of units in the Pool at the end of the year, except that income shall be allocated to units outstanding during only part of such year by taking into consideration the period of time such units are outstanding during such taxable year.

Comment: This is as spelled out in Regulation §1.642(c)-5(c) (2)(i)(a) through (c). Subparagraph (ii) of this Regulation permits the use of other reasonable plans so long as they are consistent with the Regulations, but most institutions would be well advised not to deviate from the standard plan in the absence of some compelling reason to do so.

12. *Determination Dates.* If possible, each transfer of property by a donor to the Pool and each withdrawal from the Pool as a result of the transfer of the remainder interest in any property of the Pool shall be made only on a determination date of the fair market value of all property held by the Pool. The property of the fund shall be valued on the first day of the

taxable year of the fund and on at least three other days within the taxable year. In no case shall the period between any two consecutive determination dates within the taxable year be greater than three calendar months. If a taxable year is less than twelve months, property in fund must be valued on first day of taxable year and on such other days within year as occur at successive intervals of no greater than three calendar months. If a transfer of property to the fund by a donor occurs on other than a determination date, the number of units of participation assigned to the income interest of such property shall be determined by using the fair market value of the property in the fund on the determination date immediately preceding the date of transfer (determined without regard to the property so transferred), subject, however, to appropriate adjustments on the next succeeding determination date. In order to make such adjustment, the average fair market value of the property in the fund at the time of the transfer shall be deemed to be the average of the fair market values of the property in the fund on the determination dates immediately preceding and succeeding the date of transfer. For the purpose of determining such average, any property transferred to the fund between such preceding and succeeding dates, or on such succeeding date, shall be excluded.

Comment: Required by Regulation §1.642(c)-5(a)(5)(vi) and -5(c)(2)(iii).

13. *Prohibited Activities.* Notwithstanding any other provision hereof, the income of the Pool for each taxable year shall be distributed at such time and in such manner as not to subject the Pool to tax under §4942 of the Internal Revenue Code of 1954 as amended. The College as trustee shall not engage in any act of self-dealing (as defined in §4941(d) of the said Code); nor shall the College make any taxable expenditures (as defined in

§4945(d) of the said Code); nor shall the College make any investments which jeopardize the charitable purpose of any gift to the Pool (as defined in §4944 of the said Code) or retain any excess business holdings (within the meaning of §4943 of the said Code).

Comment: The Code sections referred to are private foundation provisions. Although not all of the prohibitions are required for charitable remainder trusts, it is recommended that all be included.

14. *Definition of Income.* For the purposes of this trust, the term "income" has the same meaning as it does under Section 643(b) of the Internal Revenue Code and regulations thereunder. The term "income" shall mean net income after payment of any expenses of administering the Pool. Such expenses shall include reasonable investment management, custodial, and like fees. The following shall be treated as principal and not as "income":

- (a) Gains and losses from the sale, exchange, redemption, or other disposition of investments;
- (b) Stock dividends, stock splits, or similar distributions;
- (c) Capital gain dividends of regulated investment companies (mutual funds);
- (d) Liquidating distributions;
- (e) Any other dividends or distributions not deemed taxable as ordinary income under the Internal Revenue Code.

If interest-bearing securities are acquired at a premium over par or other stated value, the premium shall be amortized from income so as to restore the premium to principal.

Comment: Regulation §1.642(c)-5(a)(5)(i). Institutions

should check carefully to be sure that their normal accounting practice is in conformity with the requirements of this paragraph, especially if life income fund assets are to be mingled with other assets of the institution as provided in paragraph 4.

15. *Trustee's Powers.* Except as limited by the provisions of this Plan, in addition to and not in limitation of any authority given to it by law, and without the necessity of obtaining the consent of any court, the Trustee named hereunder and any successor trustee or trustees shall have full discretionary powers of management and control, of sale and resale, in fee simple or otherwise, of mortgage, lease and pledge, of investment, reinvestment and exchange, and it shall keep the trust estate invested in securities and other forms of property including real estate, corporate stocks, common and preferred, debenture bonds and other obligations whether or not secured, including any common trust fund operated by the Trustee, as it may deem suitable for the trust, and it shall not be restricted to securities or property of the character now or hereafter authorized by law or by rules of Court. The Trustee is further authorized to retain and continue to hold in its discretion, any property or investment transferred to it without liability or depreciation or loss occasioned by so doing. The Trustee is authorized to carry securities in the name of a nominee, and to join in or oppose the merger, consolidation, reorganization or readjustment of the financial structure of any firm or corporation in which the trust estate may have an interest and may take any action which in its judgement is necessary or desirable for the proper and advantageous management, investment and distribution of the trust estates, including leasing real estate for such terms as it may deem desirable even though such terms may extend beyond the period of the trust.

Notwithstanding the above, the Trustee shall not exercise any power

whether granted hereunder or governed by law in any manner inconsistent with the qualification of the Pool as a pooled income fund trust under Section 642(c) (5) of the Internal Revenue Code of 1954 as amended by the Tax Reform Act of 1969 or hereinafter amended and the regulations and rulings of the Internal Revenue Service with respect thereto.

Comment: The Trustee's powers are a question of local law. Counsel should be consulted. In the event that the College wishes to appoint a corporate trustee, additional powers as shown on page 88a should be considered.

16. *Incorporation by Reference.* This instrument may be and is intended to be incorporated by reference in any will, trust, or other instrument whereby property is transferred to the College and an income interest is retained or created for the life of one or more named beneficiaries, each of whom is living at the time of transfer. This instrument, together with any such instrument of transfer, shall together be considered the "governing instrument" for such transfer. Any property transferred to the College by will or otherwise whereby an income interest is retained or created for the life of one or more named beneficiaries, each of whom is living at the time of transfer, where this instrument is not incorporated by reference, shall be made a part of the Pool and be held, managed, and distributed under the terms of this instrument unless the will or other instrument of transfer is inconsistent with such action by the College.

Comment: It is hoped that this will be accepted by the Internal Revenue Service and as a basis for validating gifts or bequests made in general terms or in terms which do not comply completely with the requirements of the statute and Regulations

17. *Purpose.* The purpose of the Pool is to create financial reserves for the College while, at the same time, affording reasonable returns to individual beneficiaries. It is not the purpose of the Pool to compete with regulated investment companies, commercial annuities, or other forms of investment available to the general public. The College shall establish and maintain policies from time to time setting forth minimum ages, maximum number of lives of individual income beneficiaries and the minimum donated amounts for participation in the Pool. The College shall give prior approval to each gift to the Pool before it is made a part of the Pool.

Comment: This language has been inserted to indicate clearly that neither a public offering of securities nor the operation of an investment company is intended by the trustees of a pooled fund. Nevertheless, see page 113 with regard to "disclosure statement" required for every pooled income fund.

18. *Governing Law.* By executing this instrument, the College intends to qualify the Pool as a Pooled Income Fund within the meaning of §642(c)(5) of the Internal Revenue Code of 1954, as amended, and the regulations thereunder. The provisions hereof should be interpreted in accordance with the regulations and rulings promulgated by the Internal Revenue Service with respect to such funds and contributions to them. Otherwise, this instrument shall be governed by the laws of the State of _____.

Comment: If it is the intention to qualify a Pool in existence prior to July 1, 1971, the following phrase should be added to the opening sentence of this paragraph: "and to satisfy all of the amendment requirements of §1.642(c)-7 of the Internal Revenue Service Regulations for funds created before July 1, 1971."

19. *No Invasion for Tax or Other Use.* Regardless of the laws of any state or jurisdiction and anything to the contrary notwithstanding, the assets of the Pool shall not be subject to claim for any Federal, state or other estate, inheritance or succession taxes or duties which may be assessed against the estate of any donor hereto or against any beneficiary hereunder and any donor hereto agrees that his Will will include a provision that any and all taxes and duties payable with respect to any assets included in the trust estate shall be paid out of the assets of the Donor's estate as are subject to administration and not out of the assets of the trust estate. Regardless of the laws of any state or jurisdiction and anything to the contrary notwithstanding, the College shall not have the power to invade the trust for the benefit of the donor or any beneficiary or any other party for any purpose whatsoever and the only payments made hereunder shall be the income payments made to a donor and/or his beneficiaries as described in Paragraph 8.

20. *Compliance with Federal Tax Laws.* The Pool shall be maintained in such manner that it satisfies the definition of a pooled income fund in Section 642(c)(5) of the Internal Revenue Code of 1954 as amended by the Tax Reform Act of 1969, or corresponding provisions of any subsequent Federal tax laws. The interpretation of this document and the administration of the Pool shall be carried out in accordance with the Code as amended from time to time, regulations promulgated by the Secretary of the United States Treasury, rulings issued by the Internal Revenue Service, court decisions and other controlling authority on the requirements of a pooled income fund.

21. *Duration of Pool.* The Pool shall remain in existence as long as any lifetime interests are outstanding, and thereafter until all property in the Pool has been transferred to the Donee.

22. *Limited Power to Amend.*

- (a) Except as provided in this Section, this Declaration of Trust may be amended, altered or modified at any time or from time to time, in writing, by the College.
- (b) In the event that an amendment affects the rights or obligations of any income beneficiary hereunder, such amendment shall not become effective until the first day of the calendar month following sixty days after a copy of such amendment shall have been mailed to each such beneficiary. If such income beneficiary shall file with the trustee a notice in writing objecting to such amendment, and if such notice is received by the trustee at least five days prior to the effective date of the amendment, such amendment shall be void.
- (c) Notwithstanding any other provision of this Section, no amendment shall be made which affects the irrevocable remainder interest granted to the College in all property held in the Pool, or which otherwise affects the qualification of the Pool as a "Pooled Income Fund" within the meaning of §642 of the Internal Revenue Code, and the College shall have the power to amend this Declaration of Trust for the purpose of preserving such qualification without reference to the limitations set forth in subparagraph (b) of this Section.

Executed as a sealed instrument this _____ day of _____, 19____.

Witness:

EXCELLENCE COLLEGE

By _____

Name:

Title

Comment: The date of the Declaration of Trust is the date the institution establishes its pooled fund and should not be changed. If the Declaration of Trust is amended at a later date, the statement above should then read: "Executed as a sealed instrument this _____ day of _____, 197__ (original date on which the pooled fund was established), as amended on the _____ day of _____, 197__ (date of amendment)."

Comment: Supplemental Powers. The following language should be considered as an extension of Paragraph 15 if the College contemplates the appointment of a corporate trustee.

The expenses incurred by the Trustee in the performance of its duties hereunder, including reasonable compensation for agents and for service of counsel rendered to the Trustee and expenses incident thereto, the Trustee's reasonable compensation (such compensation shall be in such amounts as may be agreed upon in writing from time to time between the College and the Trustee), and all other proper charges and disbursements of the Trustee, including all taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws of any jurisdiction upon or in respect of the Trust hereby created or the fund or any money, property or securities forming a part thereof, shall be paid by the Trustee out of the Fund, if not paid by the College.

The Trustee shall not be liable for the making, retention or sale of any investment or reinvestment made by it as herein provided or for any loss to or diminution of the Fund, or for anything done or omitted to be done by it, except for its own willful misconduct or lack of good faith. The Trustee may consult with legal counsel (who may be counsel to the College) concerning any questions which may arise with reference to its duties under this Declaration of Trust, and the opinion of such counsel shall be full and complete protection

in respect to any action taken or suffered by the Trustee hereunder in good faith and in accordance with the opinion of such counsel.

The College shall be responsible for providing the Trustee with all information and data concerning each gift to the pooled income fund, including information concerning the donor, the beneficiaries and any actions taken by them pursuant to the provisions of this Agreement. The College shall hold the Trustee harmless for any action or omission made in reliance of the information or data which the College provides or fails to provide. In acting hereunder, the Trustee may rely on the written statement of any employee or officer of the College. The College shall further hold the Trustee harmless for any losses whatsoever related to a period prior to the actual delivery of an executed copy of an instrument of transfer to the pooled income fund and receipt by the Trustee of the property transferred by the donor.

The Trustee shall render usual and proper statements to the College. The books of the Trustee shall be open at any reasonable time or times for inspection by officers or employees of the College.

INSTRUMENT OF TRANSFER

TO A POOLED INCOME FUND TRUST BY BEQUEST

Comment: A bequest made to a Pooled Income Trust under an Agreement created during the testator's lifetime can be made with a simple pour-over provision. The language of this section is suggested for inclusion in the Will of a donor intending to create a life interest for a survivor when no intervivos Agreement exists.

I give and bequeath, absolutely and in fee simple, the sum of _____ dollars (\$ _____) to the trustees of _____, a corporation duly existing under the laws of the State of _____ and located at _____ in said state (hereinafter called the "_____") subject to the following:

1. The _____ will acknowledge the receipt of this bequest in the amount of _____ dollars, as a gift from me, which property and all additions thereto shall be held, administered, and distributed in trust as follows.
2. This bequest shall be designated on the books and records of the _____ as the _____ Fund (hereinafter called the "Fund").
3. The Fund shall become a part of the _____ POOLED INCOME FUND and be held, managed, and distributed in accordance with the DECLARATION OF TRUST of the _____ POOLED INCOME FUND, which is incorporated herein by reference.
4. In the event that my wife, _____, survives me, there is hereby created an income interest in the Fund to commence on my

death for and during her lifetime. Until the Trustee of the Fund determines that payments shall be made more or less frequently or at other times, the Trustee shall make income payments to my wife in four quarterly payments on or about March 31, June 30, September 30, and December 31 of the taxable year of the Fund, with an adjusting payment being made, if necessary, during the taxable year or within the first 65 days following its close to bring the total payment to the actual income to which she was entitled for that year, all as more fully provided in the Declaration of Trust referred to in Section 3 hereof.

5. My wife or any other person may at any time make additional contributions to the Fund by deed, gift, or will with the consent of the _____.

6. Upon the death of my wife, the Trustee shall sever from the _____ POOLED INCOME FUND an amount equal to the value of the property upon which the income interest is based and transfer it to the _____....(add (a), (b) or (c) as appropriate).

(a) (Principal and income unrestricted) to be used in such manner as the Trustees thereof may direct.

(b) (Permanent Fund - income unrestricted) to constitute an endowment fund which shall continue to be known as the _____ Fund, such Fund to be kept invested by the _____ and the annual income thereof to be used in such manner as the Trustees thereof may direct.

(c) (Permanent Fund - income restricted) to constitute an endowment fund which shall continue to be known as the _____ Fund, such Fund to be kept invested by the _____ and the annual income thereof used to (state purpose - for example, faculty salaries, scholarships).

7. The _____ POOLED INCOME FUND shall become obligated only to pay the income created by my gift after the receipt of the principal amount of the gift from my estate. Payment of my bequest by my executor to the _____ POOLED INCOME FUND shall be made as promptly after the date of my death as the administration of my estate will permit. During the period subsequent to my death but prior to the distribution of my bequest to the _____ POOLED INCOME FUND, my executor shall be obligated to pay the income generated by my gift during the course of the administration of my estate periodically to my wife as he deems appropriate. These payments shall be made from income only and shall not be permitted to diminish the amount of the bequest.

8. The _____ shall have the power acting alone, to amend this agreement and the DECLARATION OF TRUST referred to in Paragraph 3 in any manner necessary for the sole purpose of insuring that the Fund qualifies as a bequest to a pooled income fund within the meaning of Section 642 (c) (5) of the Internal Revenue Code of 1954 as amended and the regulations thereunder.

9. The assets of the trust estate in the _____ POOLED INCOME FUND shall not be subject to claim for any Federal, State or any other estate, inheritance or succession taxes or duties which may be assessed against my estate or against any beneficiary hereunder, and I hereby indicate that it is my intention that there be no provision of my will inconsistent with this provision.

REMAINDER INTEREST COMPUTATION FOR ONE-LIFE POOLED FUND GIFT

Donor: PHIL N. THROPIST Gift Amount \$10,000 Gift Date: _____
 Beneficiary (Name, sex, age): PHIL N. THROPIST M. 72
 Pooled Fund Payout Rate: 6.766 % Payment schedule QUARTERLY

1. POOL'S ADJUSTED YEARLY RATE OF RETURN 6.766 %
2. NEAREST USABLE RATE LESS THAN LINE 1 6.6 %
3. DIFFERENCE (Line 1 minus Line 2) .166 %
4. LINE 3 DIVIDED BY 0.2 .83
5. FACTOR FOR ____ AGE ____ AT LINE 2 RATE (Table G(1) or G(2))* .59041
6. FACTOR FOR ____ AGE ____ AT NEXT HIGHER RATE .58250
7. DIFFERENCE (Line 5 minus Line 6) .00791
8. LINE 7 MULTIPLIED BY LINE 4 .00657
9. INTERPOLATED FACTOR (Line 5 minus Line 8) .58384
10. VALUE TRANSFERRED TO FUND \$ 10,000
11. PRESENT VALUE OF REMAINDER INTEREST (Line 10 x Line 9) \$ 5,838.40

* See single-life pooled fund tables, pages 28 ff.

REMAINDER INTEREST COMPUTATION FOR ONE-LIFE POOLED FUND GIFT

Donor: _____ Gift Amount \$ _____ Gift Date _____

Beneficiary (Name, sex, age): _____

Pooled Fund Payout Rate: _____ % Payment schedule _____

1. POOL'S ADJUSTED YEARLY RATE OF RETURN _____ %
2. NEAREST USABLE RATE LESS THAN LINE 1 _____ %
3. DIFFERENCE (Line 1 minus Line 2) _____ %
4. LINE 3 DIVIDED BY 0.2 _____
5. FACTOR FOR ____ AGE ____ AT LINE 2 RATE (Table G(1) or G(2))* _____
6. FACTOR FOR ____ AGE ____ AT NEXT HIGHER RATE _____
7. DIFFERENCE (Line 5 minus Line 6) _____
8. LINE 7 MULTIPLIED BY LINE 4 _____
9. INTERPOLATED FACTOR (Line 5 minus Line 8) _____
10. VALUE TRANSFERRED TO FUND \$ _____
11. PRESENT VALUE OF REMAINDER INTEREST (Line 10 x Line 9) \$ _____

* See single-life pooled fund tables, pages 28 ff.

REMAINDER INTEREST COMPUTATION FOR TWO-LIFE POOLED FUND GIFT

Donor: PHIL N. THROPIST Gift Amount \$ 10,000 Gift Date _____

1st Beneficiary (Name, sex, age): PHIL N. THROPIST M. 72

2nd Beneficiary (Name, sex, age): HELEN G. THROPIST F. 68

Pooled Fund Payout Rate: 6.766 % Payment schedule QUARTERLY

1. POOL'S ADJUSTED YEARLY RATE OF RETURN 6.766 %
2. NEAREST USABLE RATE LESS THAN LINE 1 6.6 %
3. DIFFERENCE (Line 1 minus Line 2) .166 %
4. LINE 3 DIVIDED BY 0.2 .83
5. AGE AND SEX OF OLDER BENEFICIARY M - 72
6. AGE AND SEX OF YOUNGER BENEFICIARY F - 68
7. DIFFERENCE IN AGES (Line 5 minus Line 6) 4
8. FACTOR FOR LINE 2 RATE (Table G(3), Pub. 723 B) .39493
9. FACTOR FOR NEXT HIGHER RATE (Table G(3), Pub. 723 B) .38520
10. DIFFERENCE (Line 8 minus Line 9) .00973
11. LINE 10 MULTIPLIED BY LINE 4 .00808
12. INTERPOLATED FACTOR (Line 8 minus Line 11) .38685
13. VALUE TRANSFERRED TO FUND \$ 10,000
14. PRESENT VALUE OF REMAINDER INTEREST (Line 12 x Line 13) \$ 3,868.50

REMAINDER INTEREST COMPUTATION FOR TWO-LIFE POOLED FUND GIFT

Donor: _____ Gift Amount \$ _____ Gift Date _____

1st Beneficiary (Name, sex, age): _____

2nd Beneficiary (Name, sex, age): _____

Pooled Fund Payout Rate: _____ % Payment schedule _____

1. POOL's ADJUSTED YEARLY RATE OF RETURN _____ %
2. NEAREST USABLE RATE LESS THAN LINE 1 _____ %
3. DIFFERENCE (Line 1 minus Line 2) _____
4. LINE 3 DIVIDED BY 0.2 _____
5. AGE AND SEX OF OLDER BENEFICIARY _____
6. AGE AND SEX OF YOUNGER BENEFICIARY _____
7. DIFFERENCE IN AGES (Line 5 minus Line 6) _____
8. FACTOR FOR LINE 2 RATE (Table G(3), Pub. 723 B) _____
9. FACTOR FOR NEXT HIGHER RATE (Table G(3), Pub. 723 B) _____
10. DIFFERENCE (Line 8 minus Line 9) _____
11. LINE 10 MULTIPLIED BY LINE 4 _____
12. INTERPOLATED FACTOR (Line 8 minus Line 11) _____
13. VALUE TRANSFERRED TO FUND \$ _____
14. PRESENT VALUE OF REMAINDER INTEREST (Line 12 x Line 13) \$ _____

COMPUTATION OF YEARLY RATE OF RETURN
POOLED INCOME FUND

1. Establish average fair market value of property in pooled income fund as follows:

A. Fair market value of property on determination dates	Date	Value
	<u>1/1</u>	<u>\$ 120,000</u>
	<u>3/31</u>	<u>122,000</u>
	<u>6/30</u>	<u>124,000</u>
	<u>9/30</u>	<u>131,000</u>
	<u>12/31</u>	<u>134,250</u>
	Total \$	<u>631,250</u>
B. Number of determination dates		<u>5</u>
C. Average fair market value (Line A total divided by Line B)		<u>\$ 126,250</u>

2. Establish the corrective term adjustment for taxable year as follows:

A. Date and payment to donor made within taxable year	Date	Payment
	<u>3/31</u>	<u>\$ 1860</u>
	<u>6/30</u>	<u>1900</u>
	<u>9/30</u>	<u>1960</u>
	<u>12/31</u>	<u>2010</u>
	<u>1/25 (as of 12/31)</u>	<u>620</u>
	Total \$	<u>8350</u>

- B. Table (from Regulations 1.642 (c)-6)

Payment Period	Percentage of Payment
Last week of 4th quarter	0%
Balance of 4th quarter	25%
Last week of 3rd quarter	25%
Balance of 3rd quarter	50%
Last week of 2nd quarter	50%
Balance of 2nd quarter	75%
Last week of 1st quarter	75%
Balance of 1st quarter	100%

C. Application of Table to payments

Date	Percentage		Payment		Product
<u>3/31</u>	<u>75%</u>	x	<u>\$ 1860</u>	=	<u>\$ 1395</u>
<u>6/30</u>	<u>50</u>	x	<u>1900</u>	=	<u>950</u>
<u>9/30</u>	<u>25</u>	x	<u>1960</u>	=	<u>490</u>
<u>12/31</u>	<u>0</u>	x	<u>2630</u>	=	<u>-</u>
<u> </u>	<u> </u>	x	<u> </u>	=	<u> </u>
Corrective Term Adjustment					<u>\$ 2835</u>

3. Establish yearly rate of return

A.	Average fair market value (Line 1-C)	<u>\$ 126,250</u>
	less Corrective Term Adjustment (Line 2-C)	<u>2,835</u>
	Adjusted Fair Market Value	<u>\$ 123,415</u>
B.	Total Payments (Line 2-A)	<u>\$ 8350</u>
	divided by Adjusted Fair Market Value (Line 3-A)	<u>\$ 123,415</u>
	Adjusted Yearly Rate of Return	<u>6.766 %</u>

COMPUTATION OF YEARLY RATE OF RETURN
POOLED INCOME FUND

1. Establish average fair market value of property in pooled income fund as follows:

A. Fair market value of property on determination dates	Date	Value
	_____	\$ _____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
		Total \$ _____
B. Number of determination dates		_____
C. Average fair market value (Line A total divided by Line B)		\$ _____

2. Establish the corrective term adjustment for taxable year as follows:

A. Date and payment to donor made within taxable year	Date	Payment
	_____	\$ _____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
		Total \$ _____

- B. Table (from Regulations 1.642 (c)-6)

Payment Period	Percentage of Payment
Last week of 4th quarter	0%
Balance of 4th quarter	25%
Last week of 3rd quarter	25%
Balance of 3rd quarter	50%
Last week of 2nd quarter	50%
Balance of 2nd quarter	75%
Last week of 1st quarter	75%
Balance of 1st quarter	100%

C. Application of Table to payments

Date	Percentage		Payment		Product
_____	_____ %	x	\$ _____	=	\$ _____
_____	_____	x	_____	=	_____
_____	_____	x	_____	=	_____
_____	_____	x	_____	=	_____
_____	_____	x	_____	=	_____
Corrective Term Adjustment					\$ _____

3. Establish yearly rate of return

A. Average fair market value (Line 1-C) \$ _____

less Corrective Term Adjustment (Line 2-C) _____

Adjusted Fair Market Value \$ _____

B. Total Payments (Line 2-A) \$ _____

divided by Adjusted Fair Market Value (Line 3-A) \$ _____

Adjusted Yearly Rate of Return _____ %

U.S. Fiduciary Income Tax Return

for the calendar year 1977 or fiscal year

beginning 1977, and ending 19

1977

Check applicable box(es):

- ☐ Estate (\$600 exemption)
☐ Testamentary trust
☐ Inter vivos trust
☐ Simple trust (\$300)
☐ Complex trust (\$100)
☐ Complex trust (\$300)
☐ Grantor type trust
☐ Family estate type trust
☒ Pooled income fund

Name of estate or trust ("Grantor type" trusts, see instruction O.)

EXCELLENCE COLLEGE POOLED INCOME FUND

Name and title of fiduciary

EXCELLENCE COLLEGE

Address of fiduciary (number and street)

City, State, and ZIP code

Employer identification number

12-3456789

Nonexempt charitable and split-interest trusts check applicable boxes (See instruction V.):

☐ Described in section 4947(a)(1)☒ Not treated as a private foundation by reason of sec. 509(a)(1), (2) or (3)☒ Described in section 4947(a)(2)First return? ☐ Yes ☒ No. If "No," has the fiduciary's address changed? ☐ Yes ☐ No. Final return? ☐ Yes ☐ No

INCOME	
1 Dividends (Enter full amount before exclusion)	1 3230.03
2 Interest	2 106715.32
3 Income from partnerships and other fiduciaries	3
4 Gross rents and royalties	4
5 Gross profit (loss) from trade or business	5
6 Capital gain or (loss) (Attach Schedule D (Form 1041))	6
7 Net gain or (loss) from line 9, Form 4797 (Attach Form 4797)	7
8 Other income (State nature of income)	8
9 Total income (lines 1 to 8, inclusive)	9 109945.35
DEDUCTIONS	
10 Interest	10
11 Taxes	11
12 Fiduciary's portion of depreciation (Schedule A) and depletion. Explain depletion	12
13 Charitable deduction (Schedule B, line 9)	13
14 Fiduciary fees	14
15 Attorney, accountant, and return preparer fees	15
16 Other deductions (Itemize on a separate sheet and attach)	16
17 Total (lines 10 to 16, inclusive)	17
18 Line 9 minus line 17 (Complex trusts and estates enter this amount in Schedule C, line 1 also)	18
19 Deduction for distributions to beneficiaries	19 109945.35
20 Adjustment of dividend exclusion	20
21 Estate tax attributable to income in respect of a decedent (Fiduciary's share)	21
22 Long term capital gain deduction. Enter 50% of Schedule D (Form 1041) line 17e	22
23 Exemption (If final return, see General Instruction M.)	23
24 Total (lines 19 to 23, inclusive)	24 109945.35
25 Taxable income of fiduciary (line 18 minus line 24)	25 NONE
COMPUTATION OF TAX	
26 Tax on amount on line 25 (See tax rate schedule)	26
27 If alternative tax is applicable, enter the tax from Schedule D (Form 1041) line 29	27
28 Fiduciary's share of foreign tax credit (Attach Form 1116)	28
29 Fiduciary's share of investment credit (Attach Form 3468)	29
30 (a) WIN credit (b) New jobs credit (c) Total	30
31 Total (lines 28 to 30, inclusive)	31
32 Balance (line 26 or 27, whichever is applicable, less line 31)	32
33 Tax from recomputing fiduciary's share of prior year investment credit (Attach Form 4255)	33
34 Minimum tax (Attach Form 4626)	34
35 Total (lines 32 to 34, inclusive)	35
36 Fiduciary's share of credit for tax paid at source on tax free covenant bond interest	36
37 Credit for federal tax on special fuels, nonhighway gas and lub. oil (Attach Form 4136)	37
38 Credit from regulated investment companies (Attach Form 2439)	38
39 Tax previously paid (See instruction 39 and attach Form 2758)	39
40 Federal income tax withheld (Attach Form W-2)	40
41 Total (lines 36 to 40, inclusive)	41
42 Balance of tax due (line 35 less line 41) (See instruction H.)	42
43 Overpayment (line 41 less line 35)	43

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete. Declaration of preparer (other than fiduciary) is based on all information of which preparer has any knowledge.

Sign

here

Adam Smith**DIRECTOR OF FINANCE**

Signature of fiduciary or officer representing fiduciary

4/10/78

D.A.

Signature of paid preparer (other than fiduciary) and identifying number (See instruction G)

Paid preparer's address (or employer's name, address, and identifying number)

Schedule A.—DEPRECIATION—(See the Instructions for Schedule A for information on the depreciation methods.)

a. Description of property	b. Date acquired	c. Cost or other basis	d. Depreciation allowed or allowable in prior years	e. Method of computing depreciation	f. Life or rate	g. Depreciation for this year
1 Total additional first-year depreciation—estates only (do not include in items below) →						
2 Other depreciation:						
3 Totals						
4 Less amount of depreciation claimed elsewhere on return						
5 Balance (line 3 minus line 4)						
6 Fiduciary's portion of line 5. Enter here and on page 1, line 12						

Schedule B.—CHARITABLE DEDUCTION—(Attach statement giving name and address of charitable organization.)

1 Amounts paid or permanently set aside for charitable purposes from current year's income	
2 Tax-exempt interest allocable to charitable distribution	
(Complete lines 3 and 4 below only if gain on Schedule D (Form 1041) line 15, column 2, exceeds loss on Schedule D (Form 1041) line 14, column 2)	
3 a Long-term capital gain included on line 1	
(Do not complete lines b and c if such amounts are greater than line a)	
b Enter gain on Schedule D (Form 1041) line 15, column 2, minus loss on Schedule D (Form 1041) line 14, column 2	
c Enter gain on Schedule D (Form 1041) line 15, column 3, minus loss on Schedule D (Form 1041) line 14, column 3	
4 Enter 50% of the smallest of line 3a, line 3b, or line 3c (See instructions.)	
5 Enter sum of line 2 and line 4	
6 Balance (line 1 minus line 5)	
7 Enter short-term capital gains and 50% of the long-term capital gains of the current taxable year allocable to corpus, paid or permanently set aside for charitable purposes	
8 Amounts paid or permanently set aside for charitable purposes other than from income of the current year	
9 Total (line 6 plus lines 7 and 8). Enter here and on page 1, line 13	

Schedule C.—DISTRIBUTABLE NET INCOME AND DISTRIBUTIONS DEDUCTION

1 Enter amount from page 1, line 18	1
2 Add: a Tax-exempt interest (as adjusted)	2a
b Net gain shown on Schedule D (Form 1041) line 16, column 1. If net loss, enter zero	b
c Schedule B, lines 4 and 7	c
d Short-term capital gain included on Schedule B, line 1	d
e If amount on page 1, line 6, is a loss, enter amount here as a positive figure	e
3 Total (line 1 through line 2e)	3
4 If amount on page 1, line 6, is a gain, enter amount here	4
5 Distributable net income (line 3 minus line 4)	5
6 Amount of income required to be distributed currently	6
7 Other amounts paid, credited, or otherwise required to be distributed	7
8 Total (lines 6 and 7)	8
9 Enter the total of tax-exempt income included on lines 6 and 7 (as adjusted)	9
10 Balance (line 8 minus line 9)	10
11 Enter distributable net income (line 5, above)	11
12 Enter the amount from line 2a, above	12
13 Balance (line 11 minus line 12)	13
14 Distributions deduction. Enter here and on page 1, line 19, the lesser of line 10 or line 13 above	14

1 Date trust was created or, if an estate, date of decedent's death. DECEMBER 1971	Yes	No	6 Does the estate or trust receive all or any part of the earnings (salary, wages, and other compensation) of any individual by reason of a contract assignment or similar arrangement?	Yes	No
2 Did you receive tax-exempt income?		X	7 Have you deducted on this return any amount paid directly or indirectly for the benefit of the grantor or spouse?		X
If "Yes," did you deduct any expenses allocable to it?			8 Did the estate or trust, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)? If "Yes," see the Instructions for questions 8 and 9		X
3 If the estate or trust received income from a nominee, state name, identifying number, and address of nominee ▶			9 Was the estate or trust the grantor of, or transferor to, a foreign trust during any taxable year, which foreign trust was in being during the current taxable year, whether or not the estate or trust has any beneficial interest in such trust? If "Yes," you may be required to file Forms 3520, 3520-A, or 926		X
4 If a complex trust, is this a section 663(b) election?		X			
If "Yes," state amount ▶					
5 If a trust, is any section 644 tax due?					
If "Yes," state amount ▶					

**Return of Nonexempt Charitable or Split-Interest
Trust Treated as a Private Foundation**
Under Section 4947(a) of the Internal Revenue Code**1977**

For the calendar year 1977, or other taxable year beginning, 1977, and ending, 19.....

Name of trust in full

EXCELLENCE COLLEGE POOLED INCOME FUND TRUST

Employer identification number of trust

23-4567890

Name of fiduciary

EXCELLENCE COLLEGE

Fair market value of assets at end of year

Address of fiduciary (Number and street)

Check type of organization:

☐ 4947(a)(1) ☒ 4947(a)(2)

City or town, State, and ZIP code

If the trust is in a 60-month termination
under section 507(b)(1)(B) check here ☐Note: Section 4947(a)(1) trusts must complete all Parts of
the return. Section 4947(a)(2) trusts see instructions.

Date the trust was created

4947(a)(1) trusts filing this form in lieu of
Form 1041 check here, see General In-
struction A ☐**Part I Analysis of Receipts and Expenditures**
(See instructions for Part I)

	(A) Receipts and expenditures per books	(B) Computation of Net Investment Income	(C) Computation of Adjusted Net Income	(D) Disbursements for Charitable Purpose
Receipts				
1 Gross contributions, gifts, grants, etc. (see instructions) . . .				
2 Contributions from split-interest trusts (see instructions) . . .				
3 Interest				
4 Dividends	106 715			
5 Gross rents and royalties	3 230			
6 Net gain or (loss) from sale of assets not in line 10				
7 Capital gain net income (see instructions)				
8 Net short-term capital gain (see instructions)				
9 Income modifications (see instructions)				
10 Gross profit from any business activities: (Gross receipts \$ less cost of sales \$ see instructions)				
11 Other income (attach schedule)				
12 Total—add lines 1 through 11	109 945			
Expenditures				
13 Compensation of officers, etc. (see instructions)				
14 Other salaries and wages				
15 Other employee benefits				
16 Investment, legal and other professional services				
17 Interest				
18 Taxes (see instructions)				
19 Depreciation, amortization, and depletion (see instructions)				
20 Rent				
21 Other expenses (attach schedule)				
22 Contributions, gifts, grants (see instructions)				
23 Total—add lines 13 through 22				
24 Line 12 less line 23: (a) Excess of receipts over expenditures	109 945			
(b) Net investment income (if negative, enter 0)				
(c) Adjusted net income (if negative, enter 0)				

Part II Excise Tax On Investment Income

1 Enter 4% of line 24(b) (see instructions)	
2 Computation under section 511 (see instructions)	
3 Add lines 1 and 2	
4 Tax under Subtitle A (see instructions)	
5 Excise tax under 4940(b)—line 3 minus line 4 (but not less than zero—see instructions)	
6 Tax paid with application for extension of time to file (Form 2758)	
7 Tax Due—line 5 less line 6 Pay in full with return. Make check or money order payable to Internal Revenue Service ▶ (Write Employer identification number on check or money order)	
8 Overpayment—line 6 less line 5	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief
it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Sign here	Signature of officer or trustee	Date	▶ Paid preparer's signature and identifying number (see instructions)
	DIRECTOR OF FINANCE		▶ Paid preparer's address (or employer's name, address and identifying number)

Part III Questionnaire

- 1 (a) If a 4947(a)(1) trust with at least \$5,000 in assets at any time during the year, did you file Form 990-AR for the taxable year as required by Section 6056? (See General Instruction G)

Yes	No
☐	☐
- (b) If (a) is "Yes," have you furnished a copy of Form 990-AR (or equivalent report) to the Attorney General (or his/her designate) of each State as required by general instruction G?

☐	☐
--------------------------	--------------------------
- If "No," attach explanation. If "Yes," list here. _____
- 2 If the trust is the type described in section 4947(a)(2), do:
- (a) The provisions of section 4947(c)(2)(A), (B) or (C) apply? (See Special Rules for Split-Interest Trusts on page 2 of Instructions)

☒	☐
-------------------------------------	--------------------------
- If "Yes," do not apply the questions in Part V to any portion of the trust within the scope of such provisions.
- (b) (1) the provisions of section 4947(b)(3)(A) apply? (See Special Rules for Split-Interest Trusts on page 2 of Instructions)

☐	☒
--------------------------	-------------------------------------
- (2) the provisions of section 4947(b)(3)(B) apply? (See Special Rules for Split-Interest Trusts on page 2 of Instructions)

☒	☐
-------------------------------------	--------------------------
- If you answered "Yes" to question (b)(1) or (2), do not answer questions 3 and 4 of Part V.
- 3 At the time of filing this return for 1977 does the organization satisfy the requirements of section 508(e)? (See General Instruction I) by:
- (a) Language in the governing instrument (original or as amended)?

☐	☐
--------------------------	--------------------------
- (b) State legislation that effectively amends the governing instrument and the governing instrument contains no mandatory directions which are in conflict with such State legislation?

☒	☐
-------------------------------------	--------------------------

Part IV Balance Sheets

	Beginning of Taxable Year		End of Taxable Year	
	(A) Amount	(B) Total	(C) Amount	(D) Total
Assets				
1 Cash:				
(a) Savings and interest-bearing accounts				
(b) Other	5624	5624	555 695	555 695
2 Accounts receivable net				
3 Notes receivable net (attach schedule)				
4 Inventories				
5 Gov't obligations:				
(a) U.S. and instrumentalities				
(b) State, subdivisions thereof, etc.				
6 Investments in nongovernment bonds, etc. (attach schedule)		1435 059		888 270
7 Investments in corporate stocks (attach schedule)		52 201		48 167
8 Mortgage loans (number of loans.....)				
9 Other investments (attach schedule)		1 262		
10 Depreciable (depletable) assets (attach schedule):				
(a) Held for investment purposes				
(b) Less accumulated depreciation				
(c) Held for charitable purposes				
(d) Less accumulated depreciation				
11 Land:				
(a) Held for investment purposes				
(b) Held for charitable purposes				
12 Other assets (attach schedule)				
13 Total assets		1494 146		1486 132
Liabilities				
14 Accounts payable				
15 Contributions, gifts, grants, etc., payable				
16 Mortgages and notes payable (attach schedule)				
17 Other liabilities (attach schedule)				
18 Total liabilities				
Net Worth (Fund Balances)				
19 Principal Fund				
.				
.				
20 Income Fund				
.				
.				
21 Total Net Worth (Fund Balances)		1494 146		1486 132
22 Total liabilities and Net Worth (line 18 plus line 21)		1494 146		1486 132

Part V Statements with Respect to Certain Activities

File Form 4720 if question 1(b), 2(b), or 5(b) is answered "No" or question 1(c), 3(b), or 4(a) or (b) is answered "Yes."

1 Self-dealing (section 4941):

(a) Have you engaged in any of the following acts during the year either directly or indirectly, with one or more disqualified persons? (See instruction B, Part V "Definitions")—

- | | | |
|---|-----|----|
| (1) Sale, exchange or leasing of property | Yes | No |
| (2) Borrowing or lending of money or other extension of credit | | X |
| (3) Furnishing of goods, services, or facilities | | X |
| (4) Payment of compensation (or payment or reimbursement of expenses) | | X |
| (5) Transfer to, or use by or for the benefit of, a disqualified person of any part of your income or assets | | X |
| (6) Agreement to make any payment of money, or other property, to a government official (as defined in section 4946(c)) other than an agreement to make a grant to or employ such individual for any period after the termination of his or her government service if such individual is terminating his or her government service within a 90-day period | | X |

(b) If any of questions (a)(1) through (a)(6) is answered "Yes," were all of such acts in which you engaged excepted acts described in instruction C, Part V?

(c) Have you, in a prior year, engaged in any of the acts described in (a) above that were acts that resulted in acts of self-dealing in years beginning after December 31, 1969, because they were not excepted acts described in instruction C, Part V of the instructions, and that were not corrected before the first day of your taxable year beginning in 1977?

2 Taxes on failure to distribute income (section 4942) (not applicable to 4947(a)(2) trusts, and operating foundations as defined in 4942(j)(3)):

(a) Did you at the end of taxable year 1977 have any undistributed income for taxable year(s) beginning before 1977?

If "Yes," insert years

(b) If "Yes," to (a) above, are you applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) with respect to the undistributed income for ALL such years?

(c) If the provisions of section 4942(a)(2) are being applied to ANY of the years listed in (a) above, list such years here and see General Instruction A for Part V

3 Taxes on excess business holdings (section 4943):

(a) Did you hold more than a two percent direct or indirect interest in any business enterprise (see instruction B, Part V "Definitions") at any time during the year?

(b) If "Yes," have you purchased or have disqualified persons purchased stock in a business enterprise since May 26, 1969, which resulted in excess business holdings (direct or indirect) which are subject to tax under section 4943?

4 Taxes on investments which jeopardize charitable purpose (section 4944):

(a) Did you invest during the year any amount in such manner as to jeopardize the carrying out of any of your charitable purposes?

(b) Did you invest, in a prior year (but after December 31, 1969), any amount in such a manner as to jeopardize the carrying out of any of your charitable purposes and fail to remove such investment from jeopardy before the first day of your taxable year beginning in 1977?

5 Taxes on taxable expenditures (section 4945):

(a) During the year did you pay, or incur a liability to pay, for any of the following?—

- | | | |
|--|-----|----|
| (1) To carry on propaganda, or otherwise attempt to influence legislation by attempting to affect the opinion of the general public or any segment thereof or by communicating with any member or employee of a legislative body, or by communicating with any other government official or employee who may participate in the formulation of legislation | Yes | No |
| (2) To influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive | | X |
| (3) As a grant to an individual for travel, study, or other similar purposes by such individual | | X |
| (4) As a grant to an organization other than a charitable, etc., organization described in paragraph (1), (2) or (3) of section 509(a) of the Code | | X |
| (5) For any purpose other than religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals | | X |

(b) If any of questions (a)(1) through (a)(5) is answered "Yes," were all of such transactions excepted transactions described in instruction F, Part V?

(c) Did you apply exception (13) of instruction F to question (a)(4) above?
If "Yes," attach the statement required for such exception as provided in the instructions under exception (13).

Part VI Capital Gains and Losses for Tax on Investment Income

[illegible]

Part VII Minimum Investment Return for 1977

1	Fair market value of assets not used (or held for use) directly in carrying out charitable, etc., purposes:	
(a)	Monthly average of securities at fair market value	
(b)	Monthly average of cash balances	
(c)	Fair market value of all other assets (see instructions)	
(d)	Total (add lines (a), (b), and (c))	
2	Acquisition indebtedness applicable to line 1 assets	
3	Line 1(d) less line 2	
4	Cash deemed held for charitable activities—enter 1½% of line 3 (for greater amount, see instructions)	
5	Line 3 less line 4	
6	All organizations enter 5% of line 5	

Part VIII Computation of Distributable Amount for 1977 (See instructions)

1	Adjusted net income from line 24(c), Part I	
2	Minimum investment return from line 6, Part VII	
3	Enter the higher of line 1 or line 2	
4	Enter sum of: (a) Tax on investment income for 1977 from Part II	
	(b) Income tax for 1977	
5	Distributable amount (line 3 less line 4)	
6	Adjustments to distributable amount (see instructions)	
7	Distributable amount as adjusted (line 5 plus or minus line 6)—also enter on line 1, Part X	

Part IX Qualifying Distributions in 1977 (See instructions)

1	Amounts paid (including administrative expenses) to accomplish charitable, etc., purposes:	
(a)	Expenses, contributions, gifts, etc.—total from line 23 column (D), Part I	
(b)	Program related investments (see instructions)	
2	Amounts paid to acquire assets used (or held for use) directly in carrying out charitable, etc., purposes	
3	Amounts set aside for specific projects which are for charitable, etc., purposes	
4	Total qualifying distributions made in 1977 (add lines 1, 2, and 3)	

Part X Computation of Undistributed Income
(See instructions)

	(a) Corpus	(b) Years Prior to 1976	(c) 1976	(d) 1977
1 Distributable amount for 1977 from Part VIII				
2 Undistributed income, if any, as of the end of 1976:				
(a) Enter amount for 1976				
(b) Total for prior years:				
3 Excess distributions carryover, if any, to 1977:				
(a) From 1972				
(b) From 1973				
(c) From 1974				
(d) From 1975				
(e) From 1976				
(f) Total of 3(a) through (e)				
4 Qualifying distributions for 1977 ()				
(a) Applied to 1976 (but not in excess of 2(a))			()	
(b) Applied to undistributed income of prior years (Election required)		()		
(c) Treated as distributions out of corpus (Election required)				
(d) Applied to 1977 distributable amount				()
(e) Remaining amount distributed out of corpus				()
5 Excess distributions carryover applied to 1977	()			()
(If an amount appears in the 1977 column the same amount must be shown in the corpus column of line 5)				
6 Enter the net total of each column as indicated below:				
(a) Corpus. Lines 3(f), 4(c) and 4(e) less line 5				
(b) Prior years undistributed income. Line 2(b) less line 4(b). This amount is taxable—File Form 4720				
(c) Undistributed income for 1976. Line 2(a) less line 4(a). This amount is taxable—File Form 4720				
(d) Undistributed income for 1977. Line 1 less lines 4(d) and 5. Amount must be distributed in 1978				
7 Amounts treated as distributions out of corpus to satisfy requirements imposed by Code Sections 170(b)(1)(D) or 4942(g)(3) (pass through distributions—see instructions)	()			
8 Excess distributions carryover from 1972 not applied on line 5 (see instructions)	()			
9 Excess distributions carried forward. (Line 6(a) less lines 7 and 8)				
10 Analysis of line 9:				
(a) Excess from 1973				
(b) Excess from 1974				
(c) Excess from 1975				
(d) Excess from 1976				
(e) Excess from 1977				

SCHEDULE K-1
(Form 1041)Department of the Treasury
Internal Revenue Service**Beneficiary's Share of Income, Deductions, Credits, etc.—1976**

for the calendar year 1976, or fiscal year

beginning 1976, ending 19.....

(Complete for each beneficiary—see instructions on back of Copy C and the instructions for Form 1041)

Copy AFile with
Form 1041

(a) Allocable share item		(b) Amount	(c) Form 1040 filers enter column (b) amount as indicated below
1	Dividends (amount before exclusion)		Schedule B, Part I, line 1
2	Short-term capital gain		Schedule D, line 2
3	Long-term capital gain		Schedule D, line 9
4 a	Other taxable income (Itemize)		
b	.....		
c	Total of lines 4a and 4b		
d	Depreciation and depletion (See Sch. A (1041) Instrs.)		
e	Amortization deductions (Itemize) (See 1041 Instr. 14.)		
f	.....		
g	Total of lines 4d, 4e and 4f		
h	Line 4c minus line 4g . . . . .			Schedule E, Part III
5	Foreign taxes (Attach schedule)		Form 1116 or Schedule A (Form 1040), line 16
6 a	Other (Itemize)		Enter on applicable line of appropriate tax form
b	.....		Enter on applicable line of appropriate tax form
Tax Preference Items	7 Long-term capital gain		See Form 4625 Instructions
	8 Depreciation (real property)		Form 4625, line 1(b) (2)
	9 Depletion		Form 4625, line 1(i)
	10 a Other (Itemize)		Enter on applicable line of Form 4625
	b	.....	Enter on applicable line of Form 4625

Name, identifying number, and address (including ZIP code) of beneficiary

INDIVIDUAL POOL PARTICIPANT

Name and employer identification number of estate or trust and name and address (including ZIP code) of fiduciary

12 - 3456789
EXCELLENCE COLLEGE POOL10 INCOME FUND
EXCELLENCE COLLEGE**Instructions for Fiduciary**

Complete Schedule K-1 (Form 1041) for each beneficiary and file Copy A with Form 1041. You may substitute your own form, or the information notice sent to the beneficiary, if it contains the information required by this form. You may (but are not required to) give Copy B to the beneficiary. You may keep Copy C for your records. If you need more space, attach additional sheets of the same size.

If no special computations are required, use the following instructions to compute the beneficiary's income from the estate or trust. In other cases, see sections 652, 662, and 663 of the Internal Revenue Code and related regulations. For example, different computations are required if capital gains and losses or a charitable deduction are involved. In addition, the terms of the governing instrument or local law may require different computations. The instructions for Form 1041 contain numerous references to amounts to be entered on the various lines of Schedule K-1 (Form 1041). For example, the instructions for Form 1041, Schedule A, Depreciation, includes the apportionment rule for depreciation and a reference to Schedule K-1 (Form 1041)

line 4d for the depreciation which is deductible by the beneficiary rather than the fiduciary.

Income.—The beneficiary must include in gross income the smaller of (1) the amounts paid, credited or required to be distributed, or (2) the proportionate share of distributable net income, reduced in either case by the share of distributable tax-exempt income less the allocable expense not allowable as a deduction on page 1 of Form 1041.

Character of Income.—The beneficiary's income shall be deemed to consist of the same proportion of each class of items entering into the computation of distributable net income as the total of each class bears to the distributable net income.

Allocation of Deductions.—Allocate the items of deduction which enter into the computation of distributable net income among the items of distributable net income as follows. Deductions attributable to one class of income are to be deducted from that income. Deductions not attributable to one class of income may be de-

ducted from any class, except that a reasonable proportion must be deducted from tax-exempt income. Except for deductions allocable to tax-exempt income, excess deductions allocable to one class of income may be allocated to other classes. None of the deductions in the computation of distributable net income may be allocated to items attributable to corpus or to income not included in distributable net income. Since the beneficiary cannot generally claim losses or deductions of the estate or trust, no negative amounts may be shown for any class of income.

Gifts and Bequests.—Do not include in the beneficiary's income gifts or bequests of a specific sum of money or of specific property under the terms of the governing instrument which are paid or credited in three installments or less. Amounts which can be paid or credited only from income of the estate or trust do not qualify as a gift or bequest of a specific sum of money.

Past Years.—Do not include in the beneficiary's income amounts deducted in Form 1041 for an earlier year which were credited or required to be distributed in that earlier year.

pooled Income Fund
Disclosure statement

GUIDELINES FOR POOLED FUND DISCLOSURE STATEMENT

For many years, since the creation of life income contracts and the pooled fund trust, ambiguity has existed regarding the possible interpretations of a pooled fund as a "security" and the subsequent potential necessity for each pool to be registered by the Securities Exchange Commission.

In response to a letter written by Manuel F. Cohen on November 3, 1972, arguments which would protect charitable organizations from such costly registration, it was announced that the SEC staff would not recommend that the Commission take action regarding registration provided certain conditions were met. The full text of that "no action" letter follows:

Based on the facts and representations in this letter, we will not recommend that the Commission take any action if eligible colleges (or other eligible charities) establish and maintain pooled income fund trusts which qualify as recipients of tax-deductible contributions under Section 642(c)(5) of the Internal Revenue Code without registration (1) under the Investment Company Act of 1940 of such pooled trust, or of any trustee of such pooled trust, including any bank, (2) under the Securities Act of 1933 of any interests in such pooled trust, (3) under the Securities Exchange Act of 1934 of any persons soliciting gifts by means of such pooled trust. Our position is conditioned on each prospective donor receiving written disclosures which fully and fairly describe the operation of the particular pooled trust. In this connection we would like to make it

clear that in our view the antifraud provisions of the federal securities laws are applicable to sales of interests in these trusts.

While we do not necessarily agree with your legal interpretation of the exemption provided by Section 3(a)(4) of the Securities Act of 1933 and the exception provided by Section 3(c)(10) of the Investment Company Act of 1940, or your view that no "sale" for "value" occurs, the foregoing is based on recognition of the fact that the primary purpose of persons who transfer property to pooled income trusts is to make a gift to the charity of their choice. That, together with applicable Internal Revenue Code and Treasury Department restrictions and regulations, make registration under the federal securities laws appear unnecessary in these circumstances.

(Signed)

Alan Rosenblat, Chief Counsel
Division of Investment Company Regulation
December 14, 1972 SLC,lam

On the following pages are guidelines for the minimum information suggested for inclusion in a disclosure statement to meet the requirement of "fully and fairly" describing the operation of a typical pooled trust. Such guidelines should be appropriately modified for pooled funds with unusual features. For example, where the assets of the pooled fund are commingled with other invested funds of the college or university, the disclosure statement should relate to the institutional funds with which the pooled fund is invested; and appropriate

notation should be made concerning the basis and method by which the pooled fund assets, and the income interests attributable thereto, are segregated from the other institutional assets with which they are invested.

The disclosure statement should be prepared by or carefully reviewed by counsel of the institution maintaining the pool.

GUIDELINES FOR POOLED FUND DISCLOSURE STATEMENT

General Information

Brief information about the college (or other eligible institution) maintaining the pooled fund, the date of formation of the pool and the name of the state whose laws govern the pool.

Statement that the pooled income fund is one way of making reserved life income gifts to the institution, that this brochure (disclosure statement) provides the information that prospective donors would want to have concerning the operation of the pool and that the pooled fund plan is offered as an attractive way of benefiting the charitable organization, not as an investment vehicle.

Statement of the irrevocable nature of gifts to the pool and summary of the terms in the pooled fund governing instruments affecting the rights of the donors and beneficiaries.

Brief description of institutional policies with respect to gifts to the pool - minimum size of gift, types of gift property acceptable, maximum number of beneficiaries, minimum age of beneficiaries, etc.

Investment Policies

Investment policies, or proposed policies, for the pooled fund to include the following:

- (1) The primary investment objective and any secondary objective, but that there is no assurance of achieving those objectives.
- (2) The types of securities and other property in which the pooled fund may invest and the fact that the pool may not accept or invest in tax exempt securities.

- (3) The concentration of investments, or limitation on concentration, in particular industries and/or classes of securities.
- (4) Policy with respect to investment in restricted securities, real estate or other illiquid assets.
- (5) Policy with respect to investment in the securities of investment companies.

Investment Limitations

Limitations, or proposed limitations, if any, with respect to:

- (1) The borrowing of money or pledging as security for indebtedness of pooled fund assets.
- (2) Underwriting securities of other issuers.
- (3) Acquisition or sale of real estate.
- (4) Acquisition or sale of commodities or commodity contracts.
- (5) Making of loans.
- (6) Investment for the purpose of exercising control of management.

Pending Legal Proceeding

Statement of any pending legal proceedings to which the pooled fund is or may be a party, including the name of the court, the date suit was instituted, the principal parties involved, etc.

Income and Remainder Interests

- (1) How income interest may be distributed to beneficiaries (joint and survivor, or consecutive) and the fact that terms of the gift may not be changed, once made, except that donor may revoke the income interest of any succeeding beneficiary by provision in his will.
- (2) How distributions to beneficiaries are determined and paid (including payment schedule), including the fact that the beneficiary of a gift which has been in the pool for less than a year will receive a fractional payment based on the fraction of the year the gift has been in the pool.

- (3) How beneficiaries are taxed on such distributions and the responsibility of the trustee to report the amount of distribution to each beneficiary at the end of each taxable year of the trust.
- (4) Explanation of how assets representing the value on which an income interest is based are to be severed from the pool and delivered outright to the charity upon the death of the beneficiaries of that income interest.

Unit Method of Operation

Describe briefly the unit method by which the pooled fund is operated, including:

- (1) Taxable year of the pool.
- (2) Dates on which market value of pool assets are regularly determined.
- (3) Frequency and method of determination of the unit share value.
- (4) How the unit share value is used in assigning the number of units to new funds coming into the pool and in severing old funds from the pool.
- (5) Normal dates for entry of new funds into the pool and procedure for entering new funds on other than normal dates.
- (6) Statement as to what constitutes distributable income from the pool and what is considered principal.

Tax Consequences of Gifts to the Pool

Explanation of how the income tax deduction on gift to the pool is calculated, including the fact that an assumed 6% annual interest factor is used if the pool is less than three years old and that the highest annual rate of return of the pool for the three previous years is used if the pool is more than three years old. (In the latter case, state the rates of return for the three previous years and the one which is being used for deductibility computations in the

current year.) Explain the 50% and 30% limits of deductibility and the carry-over provision.

Description of capital gains tax consequences for gifts of appreciated securities; gift tax consequences with respect to both the gift of remainder interest and the gift(s) of the income interest(s) to other beneficiaries; estate tax consequences in the donor's estate.

Investment Performance for Old Pools

For pools in existence five years or more, describe performance of market value of pool assets and income to beneficiaries. This can perhaps best be done by assuming a \$10,000 gift to the pool in its first year and then constructing a chart to show the market value of the gift and the income paid to the beneficiary (both in dollars and as a percentage of the original \$10,000 book value) for each subsequent year of the pool through the most recent full year.

Trusteeship and Investment Management

Identify the trustee of the pool, whether the institution itself or an outside trustee, such as a bank. If bank is trustee, describe briefly the terms of the agreement under which the trustee serves, including basis for determining payment for such services.

Identify the persons and/or entities responsible for investment management (e.g., trustee investment committee and/or investment office or officer of the institution, etc.). If the trustee employs an investment manager or a professional investment counseling service, identify such manager or service by name and address and describe briefly the terms under which such manager or service operates with respect to the pooled fund, including the basis for determining compensation. Describe briefly the professional credentials of the manager or service.

Financial Statements

The disclosure statement should state that a financial report for the pooled fund at the end of each fiscal year will be prepared and sent to each donor and beneficiary of the pool and whether such report will be audited or not audited. The financial report should include at least the following:

- (1) Listing of all assets and liabilities of the pool at the beginning and the end of the period covered (in the case of assets, both cost and market value and concentration in major industrial fields should be shown).
- (2) Statement of increase or decrease in net asset value since last report.
- (3) Statement of total additions to and withdrawals from the pool for the period.
- (4) Statement of earnings and expenses for the period.
- (5) Statement of investments acquired, sold or redeemed since prior report.

Miscellaneous

- (1) Explanation that the disclosure statement is required by the Securities and Exchange Commission as a condition of the "no action" position of the SEC staff with respect to pooled income funds, and the income interests therein, which are not registered under the federal securities laws. Statement that the pool has not in fact been registered under any federal or state securities laws.
- (2) Statement that the institution maintaining the pool reserves the right to decline any gift to the pool and that it retains sole discretion as to the investment or reinvestment of any of the pool assets.
- (3) Statement that the interest of beneficiaries is limited to the pool income, and that the assets and income of the institution, as

distinct from those of the pool, are not available to pay any liabilities of the pool or income to any beneficiary of the pool.

- (4) Identification of the section of the Internal Revenue Code and Regulations governing pooled income funds.
- (5) Declaration of Trust governing the pool and samples of the instruments of transfer should be included as part of the disclosure statement as appendices.

Unitrust
Definition and Investment

DEFINITION OF CHARITABLE REMAINDER UNITRUSTS

Under Code Section 664(d)(2) and (3), three variations of the charitable remainder unitrust are defined: "straight" unitrust, "net income" unitrust and "net-income-plus-makeup" unitrust. (See also IRS Regulations, Sections 1.664-1, 1.664-3, 1.664-4.)

1. "Straight" Unitrust. A separately invested trust created by a gift of cash and/or securities from which the trustee is required to pay the Donor and/or other named beneficiaries (who must be living at the time the trust is created) a fixed percentage of the market value of the trust assets, as revalued each year on the annual valuation date, for the life or lives of the beneficiary(ies) or for a term of years (not to exceed twenty years). Upon the death of the last surviving beneficiary, or upon the expiration of the term of years, the trust is to terminate, and the trust assets must be transferred to, or for the use of, a charitable organization, as described in Code Section 170(c), or be retained for such use.

The stated percentage of payout must be at least 5% and can be higher if stated in the trust agreement. To the extent that the investment income of the assets is insufficient to make the required annual payout, the balance must be paid from principal. Conversely, any earned income in excess of the required payout is added back to principal. The trustee can be the charitable organization for whom the remainder interest is designated, or may be an individual (other than the Donor himself or a non-charitable beneficiary of the trust) or a corporate trustee, such as a bank or trust company. A charitable organization can be an income beneficiary so long as there is at least one non-charitable beneficiary.

Except for the required payout from the trust to the income beneficiaries, the trust may not be invaded, altered, amended or revoked for the beneficial use of a person other than an organization described in Code Section 170(c).

Under Code Section 664 (b) payments to the beneficiary of a straight unitrust retain the same character in the hands of the beneficiary as they had in the trust. The total of the payments for each year is taxable under, and must be reported in the order of, the following tier structure:

(A) First, as ordinary income to the extent of such income earned by the trust assets for the year and any undistributed ordinary income of the trust for prior years.

(B) Second, as long-term capital gain to the extent that the trust has realized long-term capital gains for the year and any undistributed realized long-term capital gains for prior years.

(C) Third, as non-taxable income to the extent that the trust has non-taxable income for the year and any undistributed non-taxable income for prior years.

(D) Fourth, as tax-free distribution of trust corpus.

2. "Net Income" Unitrust. Same as a "straight" unitrust except that payments to the income beneficiary(ies) in any taxable year of the trust are limited to the ordinary investment income (dividends, interest, rent) earned by the trust assets and cannot exceed the fixed payout percentage of the market value of the trust assets stated in the trust agreement. Thus, this type of unitrust can pay out only ordinary income and cannot make capital gain distributions or any payments from the trust corpus.

3. "Net-Income-Plus-Makeup" Unitrust. This is the same as the "net income" unitrust except that the trustee can pay out to the beneficiary income earned by the trust in excess of the stated percentage of the market value of the trust assets to the extent of accumulated payout deficiencies of prior years (years in which the trust earned less than the stated percentage).

UNITRUST INVESTMENT CONSIDERATIONS

1. The Straight Unitrust

The straight unitrust presents the trustee-investor with a real challenge. The unique feature of the unitrust concept lies in its near elimination of the conflict of interest between the life income beneficiary and remainderman which is inherent in most other trust arrangements. Except to the extent that the tax situation of the beneficiary is taken into account, the beneficiary and remainderman share a common investment goal: maximum "total return," whether in the form of yield (interest and dividends) or appreciation in market value, or both.* Investment for total return gives the trustee great freedom to adjust investment strategy to prevailing market conditions. With this freedom, however, comes additional pressure to compile a superior investment record. Unlike any other type of charitable remainder trust the annual payments from a straight unitrust to beneficiaries will fluctuate directly and immediately with the success or failure of the trustee's investment performance.

The primary investment objective for the straight unitrust is to achieve a total return over the long haul that will be greater than the stated percentage of payout from the trust. Thus, if the payout is 6% of the market value of the trust assets, as revalued each year, and the trustee is able to realize a total return of 9% over the long term, the market value of the trust assets will grow at a compound rate of 3% per year.

Any institution which decides to offer the straight unitrust must make two fundamental "investment" decisions at the outset. First, it must

For a complete discussion of total return theory, see Managing Educational Endowments (2nd Ed.), The Ford Foundation, New York 1972.

decide on the minimum dollar amount it will accept to establish such a trust. Second, it must decide on the maximum percentage it will agree to pay out to the beneficiaries.

The institution which intends to invest its straight unitrusts directly in individual securities holding should probably establish a substantial minimum gift amount (\$50,000 seems to be the most common minimum) in order to permit reasonable diversification of the portfolio. It is, however, feasible to take smaller straight unitrust gifts if the institution decides either to use one or more "no-load" mutual funds as the investment vehicle or arranges to have a bank serve as trustee of its unitrusts (in which case the trusts may be invested in the bank's common trust funds). Note that these are the only ways in which unitrust investments may be "pooled:" the institution itself may not pool its unitrust assets.

The payout rate question is more difficult to answer and the acceptable maximum will vary from institution to institution. It will be in part a function of the competitive conditions prevailing in the institution's fundraising "market," and in part a function of the institution's realistic expectations as to the total return it can achieve over the long term. It is worth noting that the historical rate of total return on all United States equities for the period 1900 to the present has been about 9%, although obviously some portfolios have done better than this and some have not performed as well. Hence, each institution's own historical investment performance will have to be weighed heavily. Generally speaking, the maximum rate of payout for a straight unitrust should be set at a percentage which is no higher (preferably lower) than the rate of total return which the institution realistically expects to realize from investment of the trust portfolio over the long term.

Tax considerations should not dominate unitrust investment policy but

should be taken into account to the extent permitted by market conditions. To illustrate, let us assume a January 1, 1976 gift to a 5% unitrust of \$100,000 in the form of highly appreciated securities, which the trust sold and reinvested in ten growth-oriented stocks paying an average dividend of 2%. Assume further that the valuation date is January 1, so that the payout for the first year was fixed on the date of the gift at \$5,000. Under the tier structure applicable to unitrust distributions, the beneficiary would have received \$2,000 of ordinary income and \$3,000 of capital gain income - a very good tax result if the beneficiary is in a high tax bracket.

Assume further that the trustee picked stocks which performed well and that the market value of the assets on January 1, 1977 was \$110,000, even after the first year payout to the beneficiary. The beneficiary would thus have received \$5,500 in 1977 - \$2,200 (presumably) in ordinary income and \$3,300 in capital gains. Ideally, this same scenario would be repeated year after year, and the beneficiary would live happily on his ever-growing stream of income, much of which would be taxable at lower capital gains rates.

Of course, we do not live in an ideal investment world. The experience of recent years has shown that the more modest goal of preservation of capital often makes more sense than the tireless search for "the new Xerox." For example, a portfolio oriented heavily toward capital growth would probably have declined substantially in 1977, perhaps bringing its value on January 1, 1978 to a point below the original gift of \$100,000. The payout in 1978, therefore, could be less than \$5,000, consisting of ordinary income actually earned plus a distribution from the trust's accumulated capital gains.

The ideal strategy for 1977 would have been to invest the trust entirely in high-yield bonds and utility stocks, thus preserving the value of trust principal while realizing about 9% investment income. Such a strategy

would temporarily defeat the objective of giving the beneficiary partially tax-favored income (capital gain distribution) but would have resulted in a trust value of \$114,000 on January 1, 1978.

These hypothetical results for 1977 serve to illustrate two fundamental points about unitrust total return investing. First, the manager's single goal should be maximum total return without regard for whether the return is derived from yield, appreciation, or a combination of the two. Second, while tax-sheltered income for the beneficiary is an ideal to be sought when market conditions are favorable to investment in low-yield growth stocks, the trustee should not hesitate to shift into high-yielding defensive investments when necessary for the preservation of capital, regardless of the short-term tax consequences to the beneficiary.

The institutions best equipped to manage the assets of straight unitrusts are probably those which manage a significant part of their own portfolios on a total return basis, for they can invest their unitrusts in a list of securities broadly representative of their own total return holdings, with the result that fundamental shifts between aggressive and defensive investment strategies will be quickly reflected in unitrust holdings. Institutions which do not manage their own portfolios on this basis might be well-advised to use a total-return-oriented mutual fund or bank common trust fund as the investment vehicle.

2. The Net Income Unitrust and Net-Income-Plus-Makeup Unitrust

Generally speaking, wherever the net income unitrust is the appropriate gift vehicle, the net-income-plus-makeup unitrust will be more advantageous to the beneficiary, and investment considerations will normally be the same for either of these two unitrust types. For the purpose of this

discussion, we will refer to net income unitrust as applying to either of the two types.

The net income unitrust is useful in achieving a particular income result. For example, the unitrust can be invested in bonds and/or other high-yielding securities to provide the beneficiary with a high rate of income. As noted in the section of this Guide on pooled income funds, a high yield pool has certain significant administrative advantages over a series of separately invested unitrusts in producing a high rate of payout for the beneficiary. However, if the institution does not have a high-yield pool and does not wish to establish one, the net income unitrust is a suitable alternative.

Likewise, the net income unitrust is the appropriate vehicle for investing in tax exempt securities in order to provide tax exempt income to the beneficiary. (It should be emphasized, however, that it is normally feasible for a donor to establish a tax exempt net income unitrust only if his gift is in the form of cash or non-appreciated property.)

Where the gift establishing the trust is in some form of illiquid and/or non-income producing property (real estate, restricted securities, etc.) the net income unitrust is usually the most appropriate vehicle. Such gift property is normally not suitable for a pooled income fund (because of the penalty it would impose on beneficiaries of other interests in the pool) and would be awkward for a straight unitrust or annuity trust (because of the mandatory payout requirement of such trusts). Because the net income unitrust requires a payout to the beneficiary only to the extent of income earned by the trust assets, the trustee is not obliged to make payments to the beneficiary during the period when the trust assets consist only of the donated real estate or other non-income producing property. Such property is normally sold by the trustee in due course, and the sale proceeds will then be reinvested in

appropriate income producing assets.

In the investment of the net unitrust, it should be remembered that the payout percentage stated in the trust agreements acts as a ceiling on the trust payout, and it is wise to set that percentage at a somewhat higher rate than the anticipated yield from the trust investments in order to permit payment to the beneficiary of all the income earned, even in the face of a decline in the market value of the trust portfolio.

To illustrate this potential problem, let us assume that a gift of \$100,000 is used to establish a net income unitrust which is then invested in high quality bonds paying 8% (\$8,000 per year). If the stated percentage in the trust agreement is also set at 8%, and the market value of the bond portfolio should decline to \$95,000 on the valuation date of some subsequent year, the trustee would be in the position of being able to pay the beneficiary only \$7,600 (8% of \$95,000) in that year, even though the income earned by the trust assets continues at the \$8,000 annual level.

If the stated percentage in this example had been set at 8.5%, the full amount of income earned by the trust could be paid to the beneficiary even in the face of the decline in market value of the trust portfolio. How large this margin of safety should be is a matter of judgement, and it should be kept in mind that the higher the stated payout rate in the trust agreement, the smaller will be the donor's charitable deduction for the gift establishing the trust.

unitrust

Regulations and tables D. E11. E12. E

PARAGRAPH 1. The following new sections are added immediately after § 1.663-4:

§ 1.664 Statutory provisions; charitable remainder trusts.

Sec. 664. *Charitable remainder trusts*—(a) *General rule*. Notwithstanding any other provision of this subchapter, the provisions of this section shall, in accordance with regulations prescribed by the Secretary or his delegate, apply in the case of a charitable remainder annuity trust and a charitable remainder unitrust.

(b) *Character of distributions*. Amounts distributed by a charitable remainder annuity trust or by a charitable remainder unitrust shall be considered as having the following characteristics in the hands of a beneficiary to whom is paid the annuity described in subsection (d)(1)(A) or the payment described in subsection (d)(2)(A):

(1) First, as amounts of income (other than gains, and amounts treated as gains, from the sale or other disposition of capital assets) includible in gross income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years:

(2) Second, as a capital gain to the extent of the capital gain of the trust for the year and the undistributed capital gain of the trust for prior years;

(3) Third, as other income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years; and

(4) Fourth, as a distribution of trust corpus.

For purposes of this section, the trust shall determine the amount of its undistributed capital gain on a cumulative net basis.

(c) *Exemption from income taxes*. A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this sub-

title, unless such trust, for such year, has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust).

(d) *Definitions*—(1) *Charitable remainder annuity trust*. For purposes of this section, a charitable remainder annuity trust is a trust—

(A) From which a sum certain (which is not less than 5 percent of the initial net fair market value of all property placed in trust) is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals,

(B) From which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

(C) Following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

(2) *Charitable remainder unitrust*. For purposes of this section, a charitable remainder unitrust is a trust—

(A) From which a fixed percentage (which is not less than 5 percent) of the net fair market value of its assets, valued annually, is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals,

(B) From which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

(C) Following the termination of the payments described in subpara-

graph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

(3) *Exception*. Notwithstanding the provisions of paragraphs (2)(A) and (B), the trust instrument may provide that the trustee shall pay the income beneficiary for any year—

(A) The amount of the trust income, if such amount is less than the amount required to be distributed under paragraph (2)(A), and

(B) Any amount of the trust income which is in excess of the amount required to be distributed under paragraph (2)(A), to the extent that (by reason of subparagraph (A)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

(e) *Valuation for purposes of charitable contribution*. For purposes of determining the amount of any charitable contribution, the remainder interest of a charitable remainder annuity trust or charitable remainder unitrust shall be computed on the basis that an amount equal to 5 percent of the net fair market value of its assets (or a greater amount, if required under the terms of the trust instrument) is to be distributed each year.

[Sec. 664 as added by sec. 201(e) of the Tax Reform Act of 1969 (Pub. Law 91-172, 83 Stat. 562) [C.B. 1969-3, 10 at 52]]

§ 1.664-1 Charitable remainder trusts.

(a) *In general*—(1) *Introduction*

(i) *General description of a charitable remainder trust*. Generally, a charitable remainder trust is a trust which provides for a specified distribution, at least annually, to one or more beneficiaries, at least one of which is not a charity, for life or for a term of years, with an irrevocable remainder interest to be held for the benefit of, or paid over to, charity. The specified distribution to be paid at least annually must be a sum certain which is not less than 5 percent of the initial net fair market value of all property placed in trust (in the case of a charitable remainder annuity trust) or a fixed percentage which is not less than 5 percent of the net fair market value

of the trust assets, valued annually (in the case of a charitable remainder unitrust). A trust created after July 31, 1969, which is a charitable remainder trust is exempt from all of the taxes imposed by subtitle A of the Code for any taxable year of the trust except a taxable year in which it has unrelated business taxable income.

(ii) *Scope.* This section provides definitions, general rules governing the creation and administration of a charitable remainder trust, and rules governing the taxation of the trust and its beneficiaries. For the application of certain foundation rules to charitable remainder trusts, see paragraph (b) of this section. If the trust has unrelated business taxable income, see paragraph (c) of this section. For the treatment of distributions to recipients, see paragraph (d) of this section. For the treatment of distributions to charity, see paragraph (e) of this section. For the time limitations for amendment of governing instruments, see paragraph (f) of this section. For transitional rules under which particular requirements are inapplicable to certain trusts, see paragraph (g) of this section. Section 1.664-2 provides rules relating solely to a charitable remainder annuity trust. Section 1.664-3 provides rules relating solely to a charitable remainder unitrust. Section 1.664-4 provides rules governing the calculation of the fair market value of the remainder interest in a charitable remainder unitrust. For rules relating to the filing of returns for a charitable remainder trust, see paragraph (a) (6) of § 1.6012-3 and section 6034 and the regulations thereunder.

(iii) *Definitions.* As used in this section and §§ 1.664-2, 1.664-3, and 1.664-4:

(a) *Charitable remainder trust.* The term "charitable remainder trust" means a trust with respect to which a deduction is allowable under section 170, 2055, 2106, or 2522 and which meets the description of a charitable remainder annuity trust (as described in § 1.664-2) or a charitable remainder unitrust (as described in § 1.664-3).

(b) *Annuity amount.* The term "annuity amount" means the amount

described in paragraph (a) (1) of § 1.664-2 which is payable, at least annually, to the beneficiary of a charitable remainder annuity trust.

(c) *Unitrust amount.* The term "unitrust amount" means the amount described in paragraph (a) (1) of § 1.664-3 which is payable, at least annually, to the beneficiary of a charitable remainder annuity trust.

(d) *Recipient.* The term "recipient" means the beneficiary who receives the possession or beneficial enjoyment of the annuity amount or unitrust amount.

(e) *Governing instrument.* The term "governing instrument" has the same meaning as in section 508(e) and the regulations thereunder.

(2) *Requirement that the trust must be either a charitable remainder annuity trust or a charitable remainder unitrust.* A trust is a charitable remainder trust only if it is either a charitable remainder annuity trust in every respect or a charitable remainder unitrust in every respect. For example, a trust which provides for the payment each year to a noncharitable beneficiary of the greater of a sum certain or a fixed percentage of the annual value of the trust assets is not a charitable remainder trust inasmuch as the trust is neither a charitable remainder annuity trust (for the reason that the payment for the year may be a fixed percentage of the annual value of the trust assets which is not a "sum certain") nor a charitable remainder unitrust (for the reason that the payment for the year may be a sum certain which is not a "fixed percentage" of the annual value of the trust assets).

(3) *Restrictions on investments.* A trust is not a charitable remainder trust if the provisions of the trust include a provision which restricts the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets. In the case of transactions with, or for the benefit of, a disqualified person, see section 4941(d) and the regulations thereunder for rules relating to the definition of self-dealing.

(4) *Requirement that trust must meet definition of and function exclu-*

sively as a charitable remainder trust from its creation. In order for a trust to be a charitable remainder trust, it must meet the definition of and function exclusively as a charitable remainder trust from the creation of the trust. Solely for the purposes of section 664 and the regulations thereunder, the trust will be deemed to be created at the earliest time that neither the grantor nor any other person is treated as the owner of the entire trust under subpart E, part 1, subchapter J, chapter 1, subtitle A of the Code (relating to grantors and others treated as substantial owners), but in no event prior to the time property is first transferred to the trust. For purposes of the preceding sentence, neither the grantor nor his spouse shall be treated as the owner of the trust under such subpart E merely because the grantor or his spouse is named as a recipient. See examples 1 through 3 of subparagraph (6) of this paragraph for illustrations of the foregoing rule.

(5) *Rules applicable to testamentary transfers—*(i) *Deferral of annuity or unitrust amount.* Notwithstanding subparagraph (4) of this paragraph and §§ 1.664-2 and 1.664-3, for purposes of sections 2055 and 2106 a charitable remainder trust shall be deemed created at the date of death of the decedent (even though the trust is not funded until the end of a reasonable period of administration or settlement) if the obligation to pay the annuity or unitrust amount with respect to the property passing in trust at the death of the decedent begins as of the date of death of the decedent, even though the requirement to pay such amount is deferred in accordance with the rules provided in this subparagraph. If permitted by applicable local law or authorized by the provisions of the governing instrument, the requirement to pay such amount may be deferred until the end of the taxable year of the trust in which occurs the complete funding of the trust. Within a reasonable period after such time, the trust must pay (in the case of an underpayment) or must receive from the recipient (in the case of an overpayment) the difference between—

(a) Any annuity or unitrust amounts

actually paid, plus interest on such amounts computed at 6 percent a year, compounded annually, and

(b) The annuity or unitrust amounts payable, plus interest on such amounts computed at 6 percent a year, compounded annually.

The amounts payable shall be retroactively determined by using the taxable year, valuation method, and valuation dates which are ultimately adopted by the charitable remainder trust. See subdivision (ii) of this subparagraph for rules relating to retroactive determination of the amount payable under a charitable remainder unitrust. See paragraph (d)(4) of this section for rules relating to the year of inclusion in the case of an underpayment to a recipient and the allowance of a deduction in the case of an overpayment to a recipient.

(ii) For purposes of retroactively determining the amount under subdivision (i)(b) of this subparagraph, the governing instrument of a charitable remainder unitrust may provide that the amount described in subdivision (i)(b) of this subparagraph with respect to property passing in trust at the death of the decedent for the period which begins on the date of death of the decedent and ends on the earlier of the date of death of the last recipient or the end of the taxable year of the trust in which occurs the complete funding of the trust shall be computed by multiplying—

(a) The sum of (1) the value, on the earlier of the date of death of the last recipient or the last day in such taxable year, of the property held in trust which is attributable to property passing to the trust at the death of the decedent, (2) any distributions in respect of unitrust amounts made by the trust or estate before such date, and (3) interest on such distributions computed at 6 percent a year, compounded annually, from the date of distribution to such date by—

(b) A factor equal to 1.0 less the factor under the appropriate payout rate in column 2 of Table D in § 1.664-4(b)(5) opposite the number of years in column 1 between the date of death of the decedent and the date of the earlier of the death of the last

recipient or the last day in such taxable year.

If the number of years between the date of death and the date of the earlier of the death of the last recipient or end of such taxable year is between periods for which factors are provided in Table D, a linear interpolation must be made.

(iii) *Treatment of distributions.* The treatment of a distribution to a charitable remainder trust, or to a recipient in respect of an annuity or unitrust amount, paid, credited, or required to be distributed by an estate, or by a trust which is not a charitable remainder trust, shall be governed by the rules of subchapter J, chapter 1, subtitle A of the Code other than section 664. In the case of a charitable remainder trust which is partially or fully funded during the period of administration of an estate or settlement of a trust (which is not a charitable remainder trust), the treatment of any amount paid, credited, or required to be distributed by the charitable remainder trust shall be governed by the rules of section 664.

(6) *Examples.* The application of the rules in subparagraphs (4) and (5) of this paragraph may be illustrated by the following examples:

Example (1). On September 19, 1971, H transfers property to a trust over which he retains an inter vivos power of revocation. The trust is to pay W 5 percent of the value of the trust assets, valued annually, for her life, the remainder to charity. The trust would satisfy all of the requirements of section 664 if it were irrevocable. For purposes of section 664, the trust is not deemed created in 1971 because H is treated as the owner of the entire trust under subpart E. On May 26, 1975, H predeceases W at which time the trust becomes irrevocable. For purposes of section 664, the trust is deemed created on May 26, 1975, because that is the earliest date on which H is not treated as the owner of the entire trust under subpart E. The trust becomes a charitable remainder trust on May 26, 1975, because it meets the definition of a charitable remainder trust from its creation.

Example (2). The facts are the

same as in example (1), except that H retains the inter vivos power to revoke only one-half of the trust. For purposes of section 664, the trust is deemed created on September 19, 1971, because on that date the grantor is not treated as the owner of the entire trust under subpart E. Consequently, a charitable deduction is not allowable either at the creation of the trust or at H's death because the trust does not meet the definition of a charitable remainder trust from the date of its creation. The trust does not meet the definition of a charitable remainder trust from the date of its creation because the trust is subject to a partial power to revoke on such date.

Example (3). The facts are the same as in example (1), except that the residue of H's estate is to be paid to the trust and the trust is required to pay H's debts. The trust is not a charitable remainder trust at H's death because it does not function exclusively as a charitable remainder trust from the date of its creation which, in this case, is the date it becomes irrevocable.

Example (4). (i) In 1971, H transfers property to Trust A over which he retains an inter vivos power of revocation. Trust A, which is not a charitable remainder trust, is to provide income or corpus to W until the death of H. Upon H's death the trust is required by its governing instrument to pay the debts and administration expenses of H's estate, and then to terminate and distribute all of the remaining assets to a separate Trust B which meets the definition of a charitable remainder annuity trust.

(ii) Trust B will be a charitable remainder trust from the date of its funding because it will function exclusively as a charitable remainder trust from its creation. For purposes of section 2055, Trust B will be deemed created at H's death if the obligation to pay the annuity amount begins on the date of H's death. For purposes of section 664, Trust B becomes a charitable remainder trust as soon as it is partially or completely funded. Consequently, unless Trust B has unrelated business taxable income, the income of the trust is exempt from

all taxes imposed by subtitle A of the Code, and any distributions by the trust, even before it is completely funded, are governed by the rules of section 664. Any distributions made by Trust A, including distributions to a recipient in respect of annuity amounts, are governed by the rules of subchapter J, chapter 1, subtitle A of the Code other than section 664.

Example (5). In 1973, H dies testate leaving the net residue of his estate (after payment by the estate of all debts and administration expenses) to a trust which meets the definition of a charitable remainder unitrust. For purposes of section 2055, the trust is deemed created at H's death if the requirement to pay the unitrust amount begins on H's death and is a charitable remainder trust even though the estate is obligated to pay debts and administration expenses. For purposes of section 664, the trust becomes a charitable remainder trust as soon as it is partially or completely funded. Consequently, unless the trust has unrelated business taxable income, the income of the trust is exempt from all taxes imposed by subtitle A of the Code, and any distributions by the trust, even before it is completely funded, are governed by the rules of section 664. Any distributions made by H's estate, including distributions to a recipient in respect of unitrust amounts, are governed by the rules of subchapter J, chapter 1, subtitle A of the Code other than section 664.

Example (6). (i) On January 1, 1974, H dies testate leaving the residue of his estate to a charitable remainder unitrust. The governing instrument provides that, beginning at H's death, the trustee is to make annual payments to W, on December 31 of each year, of 5 percent of the net fair market value of the trust assets, valued as of December 31 of each year, for W's life and to pay the remainder to charity at the death of W. The governing instrument also provides that the actual payment of the unitrust amount need not be made until the end of the taxable year of the trust in which occurs the complete funding of the trust. The governing instrument also provides that the amount payable with respect to the period between the

date of death and the end of such taxable year shall be computed under the special method provided in subparagraph (5)(ii) of this paragraph. The governing instrument provides that, within a reasonable period after the end of the taxable year of the trust in which occurs the complete funding of the trust, the trustee shall pay (in the case of an underpayment) or shall receive from the recipient (in the case of an overpayment) the difference between the unitrust amounts paid (plus interest at 6 percent compounded annually) and the amount computed under the special method. The trust is completely funded on September 20, 1976. No amounts were paid before June 30, 1977. The trust adopts a fiscal year of July 1 to June 30. The net fair market value of the trust assets on June 30, 1977, is \$100,000.

(ii) Because no amounts were paid prior to the end of the taxable year in which the trust was completely funded, the amount payable at the end of such taxable year is equal to the net fair market value of the trust assets on the last day of such taxable year (June 30, 1977) multiplied by a factor equal to 1.0 minus the factor in Table D corresponding to the number of years in the period between the date of death and the end of such taxable year. The adjusted payout rate (determined under § 1.664-4(b)(2)) is 5 percent. Because the last day of the taxable year in which the trust is completely funded is June 30, 1977, there are 3-181/365 years in such period. Because there is no factor given in Table D for such a period, a linear interpolation must be made:

1.0 minus .814506 (factor at	
5 percent for 4 years) ---	.185494
1.0 minus .857375 (factor at	
5 percent for 3 years) ---	.142625
Difference -----	.042869
181 = X	
365 .042869	
X = .021258	
1.0 minus .857375 (factor at	
5 percent for 3 years) ---	.142625
Plus: X -----	.021258
Interpolated factor ----	.163883

Thus, the amount payable for the period from January 1, 1974, to June

30, 1977, is \$16,388.30 ($\$100,000 \times .163883$). Thereafter, the trust assets must be valued on December 31 of each year and 5 percent of such value paid annually to W for her life.

(b) *Application of certain foundation rules to charitable remainder trusts.* See section 4947(a)(2) and section 4947(b)(3)(B) and the regulations thereunder for the application to charitable remainder trusts of certain provisions relating to private foundations. See section 508(e) for rules relating to required provisions in governing instruments prohibiting certain activities specified in section 4947(a)(2).

(c) *Taxation of nonexempt charitable remainder trusts.* If the charitable remainder trust has any unrelated business taxable income (within the meaning of section 512 and the regulations thereunder, determined as if part III, subchapter F, chapter 1, subtitle A of the Code applied to such trust) for any taxable year, the trust is subject to all of the taxes imposed by subtitle A of the Code for such taxable year. For taxable years beginning after December 31, 1969, unrelated business taxable income includes debt-financed income. The taxes imposed by subtitle A of the Code upon a nonexempt charitable remainder trust shall be computed under the rules prescribed by subparts A and C, part I, subchapter J, chapter 1, subtitle A of the Code for trusts which may accumulate income or which distribute corpus. The provisions of subpart E, part I of such subchapter J are not applicable with respect to a non-exempt charitable remainder trust. The application of the above rules may be illustrated by the following example:

Example. In 1975, a charitable remainder trust which has a calendar year as its taxable year has \$1,000 of ordinary income, including \$100 of unrelated business taxable income, and no deductions other than under sections 642(b) and 661(a). The trust is required to pay out \$700 for 1975 to a noncharitable recipient. Because the trust has some unrelated business taxable income in 1975, it is not exempt for such year. Consequently, the trust is taxable on all of its income as

a complex trust. Under section 661(a) of the Code, the trust is allowed a deduction of \$700. Under section 642(b) of the Code, the trust is allowed a deduction of \$100. Consequently, the taxable income of the trust for 1975 is \$200 (\$1,000 — \$700 — \$100).

(d) *Treatment of annual distributions to recipients*—(1) *Character of distributions*—(i) *Order of distributions*. Annuity and unitrust amounts shall be treated as having the following characteristics in the hands of the recipients (whether or not the trust is exempt) without credit for any taxes which are imposed by subtitle A of the Code on the trust:

(a) *Ordinary income*. First, as ordinary income to the extent of the sum of the trust's ordinary income for the taxable year of the trust and its undistributed ordinary income for prior years. An ordinary loss for the current year shall be used to reduce undistributed ordinary income for prior years and any excess shall be carried forward indefinitely to reduce ordinary income for future years. For purposes of this section, the amount of current and prior years' income shall be computed without regard to the deduction for net operating losses provided by sections 172 or 642(d).

(b) *Capital gain*. Second, as capital gain to the extent of the trust's undistributed capital gains. Undistributed capital gains of the trust are determined on a cumulative net basis under the rules of this subdivision without regard to the provisions of section 1212.

(1) *Long and short-term capital gains*. If, in any taxable year of the trust, the trust has both undistributed short-term capital gain and undistributed long-term capital gain, then the short-term capital gain shall be deemed distributed prior to any long-term capital gain.

(2) *Capital losses in excess of capital gains*. If the trust has for any taxable year capital losses in excess of capital gains, any excess of the net short-term capital loss over the net long-term capital gain for such year shall be a short-term capital loss in the succeeding taxable year and any excess of the net long-term capital

loss over the net short-term capital gain for such year shall be a long-term capital loss in the succeeding taxable year.

(3) *Capital gains in excess of capital losses*. If the trust has for any taxable year capital gains in excess of capital losses, any excess of the net short-term capital gain over the net long-term capital loss for such year shall be, to the extent not deemed distributed, a short-term capital gain in the succeeding taxable year and any excess of the net long-term capital gain over the net short-term capital loss for such year shall be, to the extent not deemed distributed, a long-term capital gain in the succeeding taxable year.

The application of the rules in this subdivision (b) may be illustrated by the following example:

Example. (i) The X Trust is a charitable remainder trust created on January 1, 1975, and has the calendar year as its taxable year. During the years indicated, it has the following capital transactions:

1975:	
Long-term capital loss	--- \$10
Short-term capital gain	--- \$ 5
1976:	
Short-term capital gain	--- \$20
Short-term capital loss	--- \$ 5
1977:	
Long-term capital gain	--- \$15

Distributions for 1975 and 1976 were not in excess of current and accumulated ordinary income for those years. In 1977, distributions exceeded current and accumulated ordinary income by \$5.

(ii) The treatment of the 1975 and 1976 transactions is as follows:

	Long-term capital loss recognized -----	\$(10)
	Short-term capital gain recognized -----	5
	Net long-term capital loss carried forward to 1976	\$(5)
1976:		
	Short-term capital gain recognized -----	\$ 20
	Short-term capital loss recognized -----	(5)

Long-term capital loss carried forward from 1975 -----	(5)
Net short-term capital gain carried forward to 1977 -----	\$ 10

1977:

Long-term capital gain recognized -----	\$ 15
Net short-term capital gain carried forward from 1976 -----	\$ 10

(iii) In 1977, the trust has long-term capital gain of \$15 and short-term capital gain of \$10. If the trust has both short-term capital gain and long-term capital gain for the same taxable year, the short-term capital gain is deemed distributed prior to the long-term capital gain. Therefore, the distribution of \$5 in 1977 is deemed to be short-term capital gain. The undistributed net short-term capital gain of \$5 is a short-term capital gain carried forward to 1978. The undistributed net long-term capital gain of \$15 is a long-term capital gain carried forward to 1978.

(c) *Other income*. Third, as other income (including income excluded under part III, subchapter B, chapter 1, subtitle A of the Code) to the extent of the sum of the trust's other income for the taxable year and its undistributed other income for prior years. A loss in this category for the current year shall be used to reduce undistributed income in such category for prior years and any excess shall be carried forward indefinitely to reduce such income for future years.

(d) *Corpus*. Finally, as a distribution of trust corpus. For purposes of this section, the term "corpus" means the net fair market value of the trust assets less the total undistributed income (but not loss) in each of the above categories.

(ii) *Rules relating to character of distributions*. The determination of the character of amounts distributed shall be made as of the end of the taxable year of the trust. Amounts treated as paid from one of the categories of income described in (a), (b) or (c) of subdivision (i) of this subparagraph shall be treated as consisting of the same proportion of each class of

items included in such category as the total of the current and accumulated income of each class of items bears to the total of the current and accumulated income for that category. A loss in one of such categories may not be used to reduce a gain in any other category. The provisions of subparts D and E, part 1, subchapter J, chapter 1, subtitle A of the Code are not applicable with respect to a charitable remainder trust (regardless of whether the trust is exempt).

(2) *Allocation of deductions.* Items of deduction of the trust for a taxable year of the trust which are deductible in determining taxable income (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) which are directly attributable to one or more classes of items within a category of income or to corpus (determined under subparagraph (1)(i) of this paragraph) shall be allocated to such classes of items or to corpus. All other allowable deductions for such taxable year which are not directly attributable to one or more classes of items within a category of income or to corpus (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) shall be allocated among the classes of items within the category (excluding classes of items with net losses) on the basis of the gross income of such classes for such taxable year reduced by the deductions allocated thereto under the first sentence of this subparagraph, but in no event shall the amount of expenses allocated to any class of items exceed such income of such class for the taxable year. Items of deduction which are not allocable under the above two sentences (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) may be allocated in any manner. All taxes imposed by subtitle A of the Code for which the trust is liable because it has unrelated business taxable income and all taxes imposed by chapter 42 of the Code shall be allocated to corpus. Any expense which is not deductible in determining taxable income and which is not allocable to any class of items described in subparagraph (1)(i)(c) of this paragraph shall be allocated to corpus. The deductions

allowable to a trust under sections 642(b), 642(c), 661, and 1202 are not allowed in determining the amount or character of any class of items within a category of income or corpus in the categories described in subparagraph (1) of this paragraph.

(3) *Allocation of income among recipients.* If there are two or more recipients, each will be treated as receiving his pro rata portion of the categories of income and corpus. The application of this rule may be illustrated by the following example:

Example. X transfers \$40,000 to a charitable remainder annuity trust which is to pay \$3,000 per year to X and \$2,000 per year to Y for a term of 5 years. During the first taxable year the trust has \$3,000 of ordinary income, \$500 of capital gain, and \$500 of tax exempt income after allocation of all expenses. X is treated as receiving ordinary income of \$1,800 ($\$3,000/\$5,000 \times \$3,000$), capital gain of \$300 ($\$3,000/\$5,000 \times \$500$), tax exempt income of \$300 ($\$3,000/\$5,000 \times \$500$), and corpus of \$600 ($\$3,000/\$5,000 \times [\$5,000 - \$4,000]$). Y is treated as receiving ordinary income of \$1,200 ($\$2,000/\$5,000 \times \$3,000$), capital gain of \$200 ($\$2,000/\$5,000 \times \$500$), tax exempt income of \$200 ($\$2,000/\$5,000 \times \$500$), and corpus of \$400 ($\$2,000/\$5,000 \times [\$5,000 - \$4,000]$).

(4) *Year of inclusion—(i) General rule.* To the extent required by this paragraph, the annuity or unitrust amount is includible in the recipient's gross income for the taxable year in which the annuity or unitrust amount is required to be distributed even though the annuity or unitrust amount is not distributed until after the close of the taxable year of the trust. If a recipient has a different taxable year (as defined in section 441 or 442) from the taxable year of the trust, the amount he is required to include in gross income to the extent required by this paragraph shall be included in his taxable year in which or with which ends the taxable year of the trust in which such amount is required to be distributed.

(ii) *Payments resulting from incorrect valuations.* Notwithstanding subdivision (i) of this subparagraph,

any payments which are made or required to be distributed by a charitable remainder trust pursuant to paragraph (a)(5) of this section, under paragraph (f)(3) of this section because of an amendment to the governing instrument, or under paragraphs (a)(1) of §§ 1.664-2 and 1.664-3 because of an incorrect valuation, shall, to the extent required by this paragraph, be included in the gross income of the recipient in his taxable year in which or with which ends the taxable year of the trust in which the amount is paid, credited, or required to be distributed. For rules relating to required adjustments of underpayments and overpayments of the annuity or unitrust amounts in respect of payments made prior to the amendment of a governing instrument, see paragraph (f)(3) of this section. There is allowable to a recipient a deduction from gross income for any amounts repaid to the trust because of an overpayment during the reasonable period of administration or settlement or until the trust is fully funded, because of an amendment, or because of an incorrect valuation, to the extent such amounts were included in his gross income. See section 1341 and the regulations thereunder for rules relating to the computation of tax where a taxpayer restores substantial amounts held under a claim of right.

(iii) *Rules applicable to year of recipient's death.* If the taxable year of the trust does not end with or within the last taxable year of the recipient because of the recipient's death, the extent to which the annuity or unitrust amount required to be distributed to him is included in the gross income of the recipient for his last taxable year, or in the gross income of his estate, is determined by making the computations required under this paragraph for the taxable year of the trust in which his last taxable year ends. (The last sentence of subdivision (i) of this subparagraph does not apply to such amounts.) The gross income for the last taxable year of a recipient on the cash basis includes (to the extent required by this paragraph) amounts actually distributed to the recipient before his death. Amounts required to be distributed which are

distributed to his estate, are included (to the extent required by this paragraph) in the gross income of the estate as income in respect of a decedent under section 691.

(5) *Distributions in kind.* The annuity or unitrust amount may be paid in cash or in other property. In the case of a distribution made in other property, the amount paid, credited, or required to be distributed shall be considered as an amount realized by the trust from the sale or other disposition of property. The basis of the property in the hands of the recipient is its fair market value at the time it was paid, credited, or required to be distributed. The application of these rules may be illustrated by the following example:

Example. On January 1, 1971, X creates a charitable remainder annuity trust, whose taxable year is the calendar year, under which X is to receive \$5,000 per year. During 1971, the trust receives \$500 of ordinary income. On December 31, 1971, the trust distributed cash of \$500 and a capital asset of the trust having a fair market value of \$4,500 and a basis of \$2,200. The trust is deemed to have realized a capital gain of \$2,300. X treats the distribution of \$5,000 as being ordinary income of \$500, capital gain of \$2,300 and trust corpus of \$2,200. The basis of the distributed property is \$4,500 in the hands of X.

(e) *Other distributions.*—(1) *Character of distributions.* An amount distributed by the trust to an organization described in section 170(c) other than the annuity or unitrust amount shall be considered as a distribution of corpus and of those categories of income specified in paragraph (d)(1) of this section in an order inverse to that prescribed in such paragraph. The character of such amount shall be determined as of the end of the taxable year of the trust in which the distribution is made after the character of the annuity or unitrust amount has been determined.

(2) *Distributions in kind.* In the case of a distribution of an amount to which subparagraph (1) of this paragraph applies, no gain or loss is realized by the trust by reason of a distribution in kind unless such distribu-

tion is in satisfaction of a right to receive a distribution of a specific dollar amount or in specific property other than that distributed.

(f) *Effective date.*—(1) *General rule.* The provisions of this section are effective with respect to transfers in trust made after July 31, 1969. Any trust created (within the meaning of applicable local law) prior to August 1, 1969, is not a charitable remainder trust even if it otherwise satisfies the definition of a charitable remainder trust.

(2) *Transfers to pre-1970 trusts.* Property transferred to a trust created (within the meaning of applicable local law) before August 1, 1969, whose governing instrument provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust, shall, for purposes of subparagraphs (1) and (3) of this paragraph, be deemed transferred to a trust created on the date of such transfer provided that the transfer occurs after July 31, 1969, and prior to October 18, 1971, and the transferred property and any undistributed income therefrom is severed and placed in a separate trust before December 31, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings begun before December 31, 1972, which are required to sever such property, become final.

(3) *Amendment of post-1969 trusts.* A trust created (within the meaning of applicable local law) subsequent to July 31, 1969, and prior to December 31, 1972, which is not a charitable remainder trust at the date of its creation, may be treated as a charitable remainder trust from the date it would be deemed created under § 1.664-1(a)(4) and (5)(i) for all purposes provided that all the following requirements are met:

(i) At the time of the creation of the trust, the governing instrument provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust.

(ii) The governing instrument of the trust is amended so that the trust will meet the definition of a charitable remainder trust and, if applicable, will

meet the requirement of paragraph (a)(5)(i) of this section that obligation to make payment of the annuity or unitrust amount with respect to property passing at death begin as of the date of death, before December 31, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings which are begun before December 31, 1972, and which are required to amend its governing instrument, become final. In the case of a trust created (within the meaning of applicable local law) subsequent to July 31, 1969, and prior to December 31, 1972, the provisions of section 508(d)(2)(A) shall not apply if the governing instrument of the trust is amended so as to comply with the requirements of section 508(e) before December 31, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings which are begun before December 31, 1972, and which are required to amend its governing instrument, become final. Notwithstanding the provisions of paragraphs (a)(3) and (a)(4) of §§ 1.664-2 and 1.664-3, the governing instrument may grant to the trustee a power to amend the governing instrument for the sole purpose of complying with the requirements of this section and § 1.664-2 or § 1.664-3 provided that at the creation of the trust, the governing instrument (a) provides for the payment of a unitrust amount described in § 1.664-3(a)(1)(i) or an annuity which meets the requirements of paragraph (a)(2) of §§ 1.664-2 or 1.664-3, (b) designates the recipients of the trust and the period for which the amount described in (a) of this subdivision (ii) is to be paid, and (c) provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust. The mere granting of such a power is not sufficient to meet the requirements of this subparagraph that the governing instrument be amended in the manner and within the time limitations of this subparagraph.

(iii) (a) Where the amount of the distributions which would have been made by the trust to a recipient if the amended provisions of such trust had been in effect from the time of creation of such trust exceeds the amount

of the distributions made by the trust prior to its amendment, the trust pays an amount equal to such excess to the recipient.

(b) Where the amount of distributions made to the recipient prior to the amendment of the trust exceeds the amount of the distributions which would have been made by such trust if the amended provisions of such trust had been in effect from the time of creation of such trust, such excess is repaid to the trust by the recipient.

See paragraph (d)(4) of this section for rules relating to the year of inclusion in the case of an underpayment to a recipient and the allowance of a deduction in the case of an overpayment to a recipient. A deduction for a transfer to a charitable remainder trust shall not be allowed until the requirements of this paragraph are met and then only if the deduction is claimed on a timely-filed return (including extensions) or on a claim for refund filed within the period of limitations prescribed by section 6511(a).

(g) *Transitional effective date.* Notwithstanding any other provision of this section, § 1.664-2, or § 1.664-3, the requirement of paragraph (a)(5)(i) of this section that interest accrue on overpayments and underpayments, the requirement of paragraph (a)(5)(ii) of this section that the unitrust amount accruing under the formula provided therein cease with the death of the last recipient, and the requirement that the governing instrument of the trust contain the provisions specified in paragraph (a)(1)(iv) of § 1.664-2 (relating to computation of the annuity amount in certain circumstances), paragraph (a)(1)(v) of § 1.664-3 (relating to computation of the unitrust amount in certain circumstances), paragraphs (b) of §§ 1.664-2 and 1.664-3 (relating to additional contributions), and paragraph (a)(1)(iii) of § 1.664-3 (relating to incorrect valuations), paragraphs (a)(6)(iv) of §§ 1.664-2 and 1.664-3 (relating to alternative remaindermen) shall not apply to:

(1) A will executed on or before December 31, 1972, if:

(i) The testator dies before December 31, 1975, without having repub-

lished the will after December 31, 1972 by codicil or otherwise,

(ii) The testator at no time after December 31, 1972, had the right to change the provisions of the will which pertain to the trust, or

(iii) The will is not republished by codicil or otherwise before December 31, 1975, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise, or

(2) A trust executed on or before December 31, 1972, if:

(i) The testator dies before December 31, 1975, without having amended the trust after December 31, 1972,

(ii) The trust is irrevocable on December 31, 1972, or

(iii) The trust is not amended before December 31, 1975, and the grantor is on such date and at all times thereafter under a mental disability to change the terms of the trust.

§ 1.664-3 Charitable remainder unitrust.

(a) *Description.* A charitable remainder unitrust is a trust which complies with the applicable provisions of § 1.664-1 and meets all of the following requirements:

(1) *Required payment of unitrust amount—(i) Payment of fixed percentage at least annually—(a) General rule.* The governing instrument provides that the trust shall pay not less often than annually a fixed percentage of the net fair market value of the trust assets determined annually to a person or persons described in subparagraph (3) of this paragraph for each taxable year of the period specified in subparagraph (5) of this paragraph. The trust will not be deemed to have engaged in an act of self-dealing (within the meaning of section 4941), to have unrelated debt-financed income (within the meaning of section 514), to have received an additional contribution (within the meaning of § 1.664-3(b)), or to have failed to function exclusively as a charitable remainder trust (within the meaning of § 1.664-1(a)(4)) merely because payment of the unitrust amount is made after the close of the taxable year, provided that such payment is made within a reasonable time after the close of such taxable year.

For purposes of the preceding sentence, a reasonable time will not ordinarily extend beyond the date by which the trustee is required to file Form 1041-B (including extensions) for such year.

(b) *Income exception.* Instead of the amount described in (a) of this subdivision (i), the governing instrument may provide that the trust shall pay for any year either the amount described in (1) or the total of the amounts described in (1) and (2) of this subdivision (b).

(1) The amount of trust income (as defined in section 643(b) and the regulations thereunder), for a taxable year to the extent that such amount is not more than the amount required to be distributed under (a) of this subdivision (i).

(2) An amount of trust income for a taxable year which is in excess of the amount required to be distributed under (a) of this subdivision (i) for such year, to the extent that (by reason of (1)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

(ii) *Definition of fixed percentage.* The fixed percentage may be expressed either as a fraction or as a percentage and must be payable each year in the period specified in subparagraph (5) of this paragraph. A percentage is fixed if the percentage is the same either as to each recipient or as to the total percentage payable each year of such period. For example, provision for a fixed percentage which is the same every year to A until his death and concurrently a fixed percentage which is the same every year to B until his death, the fixed percentage to each recipient to terminate at his death, would satisfy the rule. Similarly, provision for a fixed percentage to A and B for their joint lives and then to the survivor would satisfy the rule. In the case of a distribution to an organization described in section 170(c) at the death of a recipient or the expiration of a term of years, the governing instrument may provide for a reduction of the fixed percentage payable after such distribution provided that:

(a) The reduced fixed percentage is the same either as to each recipient

or as to the total amount payable for each year of the balance of such period, and

(b) The requirements of subparagraph (2)(ii) of this paragraph are met.

(iii) *Rules applicable to incorrect valuations.* The governing instrument provides that in the case where the net fair market value of the trust assets is incorrectly determined by the fiduciary, the trust shall pay to the recipient (in the case of an undervaluation) or be repaid by the recipient (in the case of an overvaluation) an amount equal to the difference between the amount which the trust should have paid the recipient if the correct value were used, and the amount which the trust actually paid the recipient. Such payments or repayments must be made within a reasonable period after the final determination of such value. Any payment due to a recipient by reason of such incorrect valuation shall be considered to be a payment required to be distributed at the time of such final determination for purposes of paragraph (d)(4)(ii) of § 1.664-1. See paragraph (d)(4) of § 1.664-1 for rules relating to the year of inclusion of such payments and the allowance of a deduction for such repayments. See paragraph (b) of this section for rules relating to additional contributions.

(iv) *Rules applicable to valuation.* In computing the net fair market value of the trust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the trust. The net fair market value of the trust assets may be determined on any one date during the taxable year of the trust, or by taking the average of valuations made on more than one date during the taxable year of the trust, so long as the same valuation date or dates and valuation methods are used each year. If the governing instrument does not specify the valuation date or dates, the trustee shall select such date or dates and shall indicate his selection on the first return on Form 1041-B which the trust is required to file. The amount described

in subdivision (i)(a) of this subparagraph which must be paid each year must be based upon the valuation for such year.

(v) *Computation of unitrust amount in certain circumstances—(a) Short taxable years.* The governing instrument provides that, in the case of a taxable year which is for a period of less than 12 months other than the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph:

(1) The amount determined under subdivision (i)(a) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the taxable year of the trust and the denominator of which is 365 (366 if February 29 is a day included in the numerator).

(2) The amount determined under subdivision (i)(b) of this subparagraph shall be computed by using the amount determined under subdivision (a)(1) of this subdivision (v), and

(3) If no valuation date occurs before the end of the taxable year of the trust, the trust assets shall be valued as of the last day of the taxable year of the trust.

(b) *Last taxable year of period.* (1) The governing instrument provides that, in the case of the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph:

(i) The unitrust amount which must be distributed under subdivision (i)(a) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the last day of the period specified in subparagraph (5) of this paragraph and the denominator of which is 365 (366 if February 29 is a day included in the numerator).

(ii) The amount determined under subdivision (i)(b) of this subparagraph shall be computed by using the amount determined under subdivision (b)(1)(i) of this subdivision (v), and

(iii) If no valuation date occurs before the end of such period, the trust assets shall be valued as of the last day of such period.

(2) See subparagraph (5) of this paragraph for a special rule allowing termination of payment of the unitrust amount with the regular payment next preceding the termination of the period specified therein.

(2) *Minimum unitrust amount*—(i) *General rule.* The fixed percentage described in subparagraph (1) (i) of this paragraph with respect to all beneficiaries taken together is not less than 5 percent.

(ii) *Reduction of unitrust amount in certain cases.* A trust will not fail to meet the requirements of this subparagraph by reason of the fact that it provides for a reduction of the fixed percentage payable upon the death of a recipient or the expiration of a term of years provided that:

(a) A distribution is made to an organization described in section 170 (c) at the death of such recipient or the expiration of such term of years, and

(b) The total of the percentage payable under subparagraph (1) of this paragraph after such distribution is not less than 5 percent.

(3) *Permissible recipients*—(i) *General rule.* The amount described in subparagraph (1) of this paragraph is payable to or for the use of a named person or persons, at least one of which is not an organization described in section 170(c). If the amount described in subparagraph (1) of this paragraph is to be paid to an individual or individuals, all such individuals must be living at the time of creation of the trust. A named person or persons may include members of a named class except in the case of a class which includes any individual, all such individuals must be alive and ascertainable at the time of the creation of the trust unless the period for which the unitrust amount is to be paid to such class consists solely of a term of years. For example, in the case of a testamentary trust, the testator's will may provide that the required amount shall be paid to his children living at his death.

(ii) *Power to alter amount paid to*

recipients. A trust is not a charitable remainder unitrust if any person has the power to alter the amount to be paid to any named person other than an organization described in section 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E, part 1, subchapter J, chapter 1, subtitle A of the Code were applicable to such trust. See paragraph (a) (4) of this section for a rule permitting the retention by a grantor of a testamentary power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). For example, the governing instrument may not grant the trustee the power to allocate the fixed percentage among members of a class unless such power falls within one of the exceptions to section 674 (a).

(4) *Other payments.* No amount other than the amount described in subparagraph (1) of this paragraph may be paid to or for the use of any person other than an organization described in section 170(c). An amount is not paid to or for the use of any person other than an organization described in section 170(c) if the amount is transferred for full and adequate consideration. The trust may not be subject to a power to invade, alter, amend, or revoke for the beneficial use of a person other than an organization described in section 170(c). Notwithstanding the preceding sentence, the grantor may retain the power exercisable only by will to revoke or terminate the interest of any recipient other than an organization described in section 170(c). The governing instrument may provide that any amount other than the amount described in subparagraph (1) of this paragraph shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170(c) provided that, in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. For example, the governing instrument may provide that a portion of the trust assets may be distributed currently, or

upon the death of one or more recipients, to an organization described in section 170(c).

(5) *Period of payment of unitrust amount*—(i) *General rules.* The period for which an amount described in subparagraph (1) of this paragraph is payable begins with the first year of the charitable remainder trust and continues either for the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. Only an individual or an organization described in section 170(c) may receive an amount for the life of an individual. If an individual receives an amount for life, it must be solely for his life. Payment of the amount described in subparagraph (1) of this paragraph may terminate with the regular payment next preceding the termination of the period described in this subparagraph. The fact that the recipient may not receive such last payment shall not be taken into account for purposes of determining the present value of the remainder interest. In the case of an amount payable for a term of years, the length of the term of years shall be ascertainable with certainty at the time of the creation of the trust, except that the term may be terminated by the death of the recipient or by the grantor's exercise by will of a retained power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). In any event, the period may not extend beyond the life or lives of a named individual or individuals or a term of years not to exceed 20 years. For example, the governing instrument may not provide for the payment of a unitrust amount to A for his life and then to B for a term of years because it is possible for the period to last longer than either the lives of recipients in being at the creation of the trust or a term of years not to exceed 20 years. On the other hand, the governing instrument may provide for the payment of a unitrust amount to A for his life and then to B for his life or a term of years (not to exceed 20 years), whichever is shorter (but not longer), if both A and B are in being at the creation of the trust because it is not possible for the period to last longer

For purposes of the preceding sentence, a reasonable time will not ordinarily extend beyond the date by which the trustee is required to file Form 1041-B (including extensions) for such year.

(b) *Income exception.* Instead of the amount described in (a) of this subdivision (i), the governing instrument may provide that the trust shall pay for any year either the amount described in (1) or the total of the amounts described in (1) and (2) of this subdivision (b).

(1) The amount of trust income (as defined in section 643(b) and the regulations thereunder), for a taxable year to the extent that such amount is not more than the amount required to be distributed under (a) of this subdivision (i).

(2) An amount of trust income for a taxable year which is in excess of the amount required to be distributed under (a) of this subdivision (i) for such year, to the extent that (by reason of (1)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

(ii) *Definition of fixed percentage.* The fixed percentage may be expressed either as a fraction or as a percentage and must be payable each year in the period specified in subparagraph (5) of this paragraph. A percentage is fixed if the percentage is the same either as to each recipient or as to the total percentage payable each year of such period. For example, provision for a fixed percentage which is the same every year to A until his death and concurrently a fixed percentage which is the same every year to B until his death, the fixed percentage to each recipient to terminate at his death, would satisfy the rule. Similarly, provision for a fixed percentage to A and B for their joint lives and then to the survivor would satisfy the rule. In the case of a distribution to an organization described in section 170(c) at the death of a recipient or the expiration of a term of years, the governing instrument may provide for a reduction of the fixed percentage payable after such distribution provided that:

(a) The reduced fixed percentage is the same either as to each recipient

or as to the total amount payable for each year of the balance of such period, and

(b) The requirements of subparagraph (2)(ii) of this paragraph are met.

(iii) *Rules applicable to incorrect valuations.* The governing instrument provides that in the case where the net fair market value of the trust assets is incorrectly determined by the fiduciary, the trust shall pay to the recipient (in the case of an undervaluation) or be repaid by the recipient (in the case of an overvaluation) an amount equal to the difference between the amount which the trust should have paid the recipient if the correct value were used and the amount which the trust actually paid the recipient. Such payments or repayments must be made within a reasonable period after the final determination of such value. Any payment due to a recipient by reason of such incorrect valuation shall be considered to be a payment required to be distributed at the time of such final determination for purposes of paragraph (d)(4)(ii) of § 1.664-1. See paragraph (d)(4) of § 1.664-1 for rules relating to the year of inclusion of such payments and the allowance of a deduction for such repayments. See paragraph (b) of this section for rules relating to additional contributions.

(iv) *Rules applicable to valuation.* In computing the net fair market value of the trust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the trust. The net fair market value of the trust assets may be determined on any one date during the taxable year of the trust, or by taking the average of valuations made on more than one date during the taxable year of the trust, so long as the same valuation date or dates and valuation methods are used each year. If the governing instrument does not specify the valuation date or dates, the trustee shall select such date or dates and shall indicate his selection on the first return on Form 1041-B which the trust is required to file. The amount described

in subdivision (i)(a) of this subparagraph which must be paid each year must be based upon the valuation for such year.

(v) *Computation of unitrust amount in certain circumstances—(a) Short taxable years.* The governing instrument provides that, in the case of a taxable year which is for a period of less than 12 months other than the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph:

(1) The amount determined under subdivision (i)(a) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the taxable year of the trust and the denominator of which is 365 (366 if February 29 is a day included in the numerator),

(2) The amount determined under subdivision (i)(b) of this subparagraph shall be computed by using the amount determined under subdivision (a)(1) of this subdivision (v), and

(3) If no valuation date occurs before the end of the taxable year of the trust, the trust assets shall be valued as of the last day of the taxable year of the trust.

(b) *Last taxable year of period.* (1) The governing instrument provides that, in the case of the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph:

(i) The unitrust amount which must be distributed under subdivision (i)(a) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the last day of the period specified in subparagraph (5) of this paragraph and the denominator of which is 365 (366 if February 29 is a day included in the numerator),

(ii) The amount determined under subdivision (i)(b) of this subparagraph shall be computed by using the amount determined under subdivision (b)(1)(i) of this subdivision (v), and

(iii) If no valuation date occurs before the end of such period, the trust assets shall be valued as of the last day of such period.

(2) See subparagraph (5) of this paragraph for a special rule allowing termination of payment of the unitrust amount with the regular payment next preceding the termination of the period specified therein.

(2) *Minimum unitrust amount—*

(i) *General rule.* The fixed percentage described in subparagraph (1) (i) of this paragraph with respect to all beneficiaries taken together is not less than 5 percent.

(ii) *Reduction of unitrust amount in certain cases.* A trust will not fail to meet the requirements of this subparagraph by reason of the fact that it provides for a reduction of the fixed percentage payable upon the death of a recipient or the expiration of a term of years provided that:

(a) A distribution is made to an organization described in section 170 (c) at the death of such recipient or the expiration of such term of years, and

(b) The total of the percentage payable under subparagraph (1) of this paragraph after such distribution is not less than 5 percent.

(3) *Permissible recipients—*(i) *General rule.* The amount described in subparagraph (1) of this paragraph is payable to or for the use of a named person or persons, at least one of which is not an organization described in section 170(c). If the amount described in subparagraph (1) of this paragraph is to be paid to an individual or individuals, all such individuals must be living at the time of creation of the trust. A named person or persons may include members of a named class except in the case of a class which includes any individual, all such individuals must be alive and ascertainable at the time of the creation of the trust unless the period for which the unitrust amount is to be paid to such class consists solely of a term of years. For example, in the case of a testamentary trust, the testator's will may provide that the required amount shall be paid to his children living at his death.

(ii) *Power to alter amount paid to*

recipients. A trust is not a charitable remainder unitrust if any person has the power to alter the amount to be paid to any named person other than an organization described in section 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E, part I, subchapter J, chapter 1, subtitle A of the Code were applicable to such trust. See paragraph (a) (4) of this section for a rule permitting the retention by a grantor of a testamentary power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). For example, the governing instrument may not grant the trustee the power to allocate the fixed percentage among members of a class unless such power falls within one of the exceptions to section 674 (a).

(4) *Other payments.* No amount other than the amount described in subparagraph (1) of this paragraph may be paid to or for the use of any person other than an organization described in section 170(c). An amount is not paid to or for the use of any person other than an organization described in section 170(c) if the amount is transferred for full and adequate consideration. The trust may not be subject to a power to invade, alter, amend, or revoke for the beneficial use of a person other than an organization described in section 170(c). Notwithstanding the preceding sentence, the grantor may retain the power exercisable only by will to revoke or terminate the interest of any recipient other than an organization described in section 170(c). The governing instrument may provide that any amount other than the amount described in subparagraph (1) of this paragraph shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170(c) provided that, in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. For example, the governing instrument may provide that a portion of the trust assets may be distributed currently, or

upon the death of one or more recipients, to an organization described in section 170(c).

(5) *Period of payment of unitrust amount—*(i) *General rules.* The period for which an amount described in subparagraph (1) of this paragraph is payable begins with the first year of the charitable remainder trust and continues either for the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. Only an individual or an organization described in section 170(c) may receive an amount for the life of an individual. If an individual receives an amount for life, it must be solely for his life. Payment of the amount described in subparagraph (1) of this paragraph may terminate with the regular payment next preceding the termination of the period described in this subparagraph. The fact that the recipient may not receive such last payment shall not be taken into account for purposes of determining the present value of the remainder interest. In the case of an amount payable for a term of years, the length of the term of years shall be ascertainable with certainty at the time of the creation of the trust, except that the term may be terminated by the death of the recipient or by the grantor's exercise by will of a retained power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). In any event, the period may not extend beyond the life or lives of a named individual or individuals or a term of years not to exceed 20 years. For example, the governing instrument may not provide for the payment of a unitrust amount to A for his life and then to B for a term of years because it is possible for the period to last longer than either the lives of recipients in being at the creation of the trust or a term of years not to exceed 20 years. On the other hand, the governing instrument may provide for the payment of a unitrust amount to A for his life and then to B for his life or a term of years (not to exceed 20 years), whichever is shorter (but not longer), if both A and B are in being at the creation of the trust because it is not possible for the period to last longer

than the lives of recipients in being at the creation of the trust.

(ii) *Relationship to 5 percent requirement.* The 5 percent requirement provided in subparagraph (2) of this paragraph must be met until the termination of all of the payments described in subparagraph (1) of this paragraph. For example, the following provisions would satisfy the above rules:

(a) A fixed percentage of at least 5 percent to A and B for their joint lives and then to the survivor for his life;

(b) A fixed percentage of at least 5 percent to A for life or for a term of years not longer than 20 years, whichever is longer (or shorter);

(c) A fixed percentage of at least 5 percent to A for a term of years not longer than 20 years and then to B for life (provided B was living at the creation of the trust);

(d) A fixed percentage to A for his life and concurrently a fixed percentage to B for his life (the percentage to each recipient to terminate at his death) if the percentage given to each individual is not less than 5 percent;

(e) A fixed percentage to A for his life and concurrently an equal percentage to B for his life, and at the death of the first to die, the trust to distribute one-half of the then value of its assets to an organization described in section 170(c) if the total of the percentages is not less than 5 percent for the entire period described in this subparagraph.

(6) *Permissible Remaindermen—*

(i) *General Rule.* At the end of the period specified in subparagraph (5) of this paragraph, the entire corpus of the trust is required to be irrevocably transferred, in whole or in part, to or for the use of one or more organizations described in section 170(c) or retained, in whole or in part, for such use.

(ii) *Treatment of Trust.* If all of the trust corpus is to be retained for such use, the taxable year of the trust shall terminate at the end of the period specified in subparagraph (5) of this paragraph and the trust shall cease to be treated as a charitable remainder trust for all purposes. If all or any portion of the trust corpus is to be

transferred to or for the use of such organization or organizations, the trustee shall have a reasonable time after the period specified in subparagraph (5) of this paragraph to complete the settlement of the trust. During such time, the trust shall continue to be treated as a charitable remainder trust for all purposes, such as sections 664, 4947(a)(2), and 4947(b)(3) (B). Upon the expiration of such period, the taxable year of the trust shall terminate and the trust shall cease to be treated as a charitable remainder trust for all purposes. If the trust continues in existence, it will be subject to the provisions of section 4947(a)(1) unless the trust is exempt from taxation under section 501(a). For purposes of determining whether the trust is exempt under section 501(a) as an organization described in section 501(c)(3), the trust shall be deemed to have been created at the time it ceases to be treated as a charitable remainder trust.

(iii) *Concurrent or successive remaindermen.* Where interests in the corpus of the trust are given to more than one organization described in section 170(c) such interests may be enjoyed by them either concurrently or successively.

(iv) *Alternative remaindermen.* The governing instrument shall provide that if an organization to or for the use of which the trust corpus is to be transferred or for the use of which the trust corpus is to be retained is not an organization described in section 170(c) at the time any amount is to be irrevocably transferred to or for the use of such organization, such amount shall be transferred to or for the use of or retained for the use of one or more alternative organizations which are described in section 170(c) at such time. Such alternative organization or organizations may be selected in any manner provided by the terms of the governing instrument.

(b) *Additional contributions.* A trust is not a charitable remainder unitrust unless its governing instrument either prohibits additional contributions to the trust after the initial contribution or provides that for the taxable year of the trust in which the additional contribution is made:

(1) Where no valuation date occurs after the time of the contribution and during the taxable year in which the contribution is made, the additional property shall be valued as of the time of contribution; and

(2) The amount described in paragraph (a)(1)(i)(a) of this section shall be computed by multiplying the fixed percentage by the sum of (i) the net fair market value of the trust assets (excluding the value of the additional property and any earned income from and any appreciation on such property after its contribution), and (ii) that proportion of the value of the additional property (that was excluded under subdivision (i) of this paragraph), which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of such taxable year or the last day of the period described in paragraph (a)(5) of this section bears to the number of days in the period which begins with the first day of such taxable year and ends with the earlier of the last day of such taxable year or the last day of the period described in paragraph (a)(5) of this section.

For purposes of this section, all property passing to a charitable remainder unitrust by reason of death of the grantor shall be considered one contribution. The application of the preceding rules may be illustrated by the following examples:

Example (1). On March 2, 1971, X makes an additional contribution of property to a charitable remainder unitrust. The taxable year of the trust is the calendar year and the regular valuation date is January 1 of each year. For purposes of computing the required payout with respect to the additional contribution for the year of contribution, the additional contribution is valued on March 2, 1971, the time of contribution. The property had a value on that date of \$5,000. Income from such property in the amount of \$250 was received on December 31, 1971. The required payout with respect to the additional contribution for the year of contribution is \$208 (5 percent $\times$ \$5,000 $\times$ 305/365). The income earned after the date of the contribution and after the

regular valuation date does not enter into the computation.

Example (2). On July 1, 1971, X makes an additional contribution of \$10,000 to a charitable remainder unitrust. The taxable year of the trust is the calendar year and the regular valuation date is December 31 of each year. The fixed percentage is 5 percent. Between July 1, 1971, and December 31, 1971, the additional property appreciates in value to \$12,500 and earns \$500 of income. Because the regular valuation date for the year of contribution occurs after the date of the additional contribution, the additional contribution including income earned by it is valued on the regular valuation date. Thus, the required payout with respect to the additional contribution is $\$325.87$ (5 percent $\times$ [$\$12,500 + \$500$] $\times$ 183/365).

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder unitrust.* See § 1.664-4 for rules relating to the calculation of the fair market value of the remainder interest of a charitable remainder unitrust.

(d) *Deduction for transfers to a charitable remainder unitrust.* For rules relating to a deduction for transfers to a charitable remainder unitrust, see sections 170, 2055, 2106, or 2522 and the regulations thereunder. The deduction allowed by section 170 for transfers to charity is limited to the fair market value of the remainder interest of a charitable remainder unitrust regardless of whether an organization described in section 170(c) also receives a portion of the amount described in § 1.664-3(a)(1). For a special rule relating to the reduction of the amount of a charitable contribution deduction with respect to a contribution of certain ordinary income property or capital gain property, see section 170(e)(1)(A) or (B)(i) and the regulations thereunder. For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and the regulations thereunder.

§ 1.664-4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.
(a) *General rule—(1) Rules for*

determining present value. For purposes of section 170, 2055, 2106, or 2522, the fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664-3) is its present value determined under this section. The present value determined under this section shall be computed on the basis of—

(i) Life contingencies determined, as to each male and female life involved, from the values of set forth in columns (2) and (3), respectively, of table LN, paragraph (f), § 20.2013-10 of this chapter (Estate Tax Regulations),

(ii) Interest at the rate of 6 percent a year compounded annually, and

(iii) The assumption that the amount described in paragraph (a)(1)(i)(a) of § 1.664-3 shall be distributed in accordance with the payout sequence described in the governing instrument.

If the governing instrument does not prescribe when the distribution shall be made during the period for which the payment is made, for purposes of this section, the distribution shall be considered payable on the first day of the period for which the payment is made.

(2) *Valuation of charitable remainder unitrusts having certain payout sequences.* The method of applying these principles to charitable remainder unitrusts which have certain payout sequences is set forth in paragraph (b) of this section.

(3) *Commissioner may supply factor.* If the computation of the value of the remainder interest of a charitable remainder unitrust requires the use of a factor which is not provided in paragraph (b) of this section, the Commissioner may, if conditions permit, supply the factor upon request. The request must be accompanied by a statement of the date of birth and sex of each individual the duration of whose life may affect the value of the remainder interest and by copies of the relevant instruments. If the Commissioner furnishes the factor, a copy of the letter supplying the factor shall be attached to the tax return in which the deduction is claimed. Many special factors involving the valuation of

a remainder interest dependent upon the continuation or termination of more than one life may be found in, or computed with the use of, the tables contained in, the publication entitled "Actuarial Values I: Valuation of Last Survivor Charitable Remainders." This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. If the Commissioner does not furnish the factor, the taxpayer must furnish a factor computed in accordance with the principles set forth in subparagraph (1) of this paragraph.

(4) *Statement supporting deduction required.* Any claim for deduction on any return for the value of a remainder interest in a charitable remainder unitrust must be supported by a full statement attached to the return showing the computation of the present value of such interest.

(b) *Valuation of charitable remainder unitrusts having certain payout sequences—(1) General rule.* The present value determined under this section of a remainder interest which is dependent on a term of years or the termination of the life of one individual shall be determined under this paragraph provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount which the trust could distribute on such date under paragraph (a)(1)(v) of § 1.664-3 if the taxable year of the trust were to end on such date. The present value of the remainder interest in such trust shall be determined by computing the adjusted payout rate (as defined in subparagraph (2) of this paragraph) and following the procedure outlined in subparagraph (3) or (4) of this paragraph, whichever is applicable. The present value of a remainder interest which is dependent on a term of years is computed under subparagraph (3) of this paragraph. The present value of a remainder interest which is dependent on the termination of the life of one individual is computed under subparagraph (4) of this paragraph.

(2) *Adjusted payout rate.* The adjusted payout rate is determined by multiplying the fixed percentage de-

scribed in paragraph (a)(1)(i)(a) of § 1.664-3 by the figure in column (2) of Table F which describes the payout sequence of the trust opposite the number in column (1) of Table F which corresponds to the number of months by which the valuation date for the first full taxable year of the trust precedes the first payout date for such taxable year. If the governing instrument does not prescribe when the distribution shall be made during the taxable year of the trust, see paragraph (a)(3) of this section. In the case of a trust having a payout sequence for which no figures have been provided by Table F and in the case of a trust which determines the fair market value of the trust assets by taking the average of valuations on more than one date during the taxable year, see paragraph (a)(3) of this section.

(3) *Period is a term of years.* If the period described in paragraph (a)(5) of § 1.664-3 is a term of years, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table D in subparagraph (5) of this paragraph opposite the number in column (1) of Table D which corresponds to the number of years in the term. If the adjusted payout rate is an amount which is between adjusted payout rates for which factors are provided in Table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this subparagraph. For purposes of this section, the term "appropriate valuation date" means the date on which the property is transferred to the trust by the donor except that, for purposes of section 2055 or 2106, it means the date of death unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder in which event it means

the alternate valuation date. If the adjusted payout rate is greater than 9 percent, see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

Example. D transfers \$100,000 to a charitable remainder unitrust on January 1, 1970. The trust instrument requires that the trust pay to D semi-annually (on June 30 and December 31) 5 percent of the fair market value of the trust assets as of June 30th for a term of 15 years. The adjusted payout rate is 4.928 percent ($5\% \times 0.985643$). The present value of the remainder interest is \$46,863.60, computed as follows:

Factor at 4.8 percent for	
15 years -----	0.478139
Factor at 5.0 percent for	
15 years -----	.463291
Difference -----	.014848
$4.928\% - 4.8\%$	X
$\frac{0.128\%}{0.128\%} =$	0.014848
X = 0.009503	
Factor at 4.8 percent for	
15 years -----	.478139
Less: X -----	.009503
Interpolated factor ---	.468636
Present value of remainder interest =	
$\$100,000 \times 0.468636 =$	\$46,863.60.

(4) *Period is the life of one individual.* If the period described in paragraph (a)(5) of § 1.664-3 is the life of one individual, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table E(1) or E(2) in paragraph (5) of this paragraph opposite the number in column (1) which corresponds to the age of the individual whose life measures the period. Table E(1) is to be used when the individual upon whose life the remainder interest is based is a male and Table E(2) is to be used when such individual is a female whose age is less than 95 years. In the case of a female whose age is more than 94

years, Table E(1) is to be used. For purposes of the computations described in this paragraph, the age of an individual is to be taken as the age of that individual at his nearest birthday. If the adjusted payout rate is an amount which is between adjusted payout rates for which factors are provided in Table E(1) or E(2), a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this subparagraph. If the adjusted payout rate is greater than 9 percent, see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

Example. D, a male who will be 50 years old on April 15, 1970, transfers \$100,000 to a charitable remainder unitrust on January 1, 1970. The trust instrument requires that the trust pay to D at the end of each taxable year of the trust 5 percent of the fair market value of the trust assets as of the beginning of each taxable year of the trust. The adjusted payout rate is 4.717 percent ($5\% \times .943396$). The present value of the remainder interest is \$37,816, computed as follows:

Factor at 4.6 percent for	
male aged 50 -----	0.38623
Factor at 4.8 percent for	
male aged 50 -----	.37244
Difference -----	.01379
$4.717\% - 4.6\%$	X
$\frac{0.117\%}{0.2\%} =$	0.01379
X = 0.00807	
Factor at 4.6 percent for	
male aged 50 -----	.38623
Less: X -----	.00807
Interpolated factor ---	.37816
Present value of remainder interest =	
$\$100,000 \times 0.37816 =$	\$37,816.

(5) The following tables shall be used in the application of the provisions of this section:

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 YEARS	2 ADJUSTED PAYOUT RATE											
	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%	6.2%	6.4%	6.6%	6.8%
1	.954000	.952000	.950000	.948000	.946000	.944000	.942000	.940000	.938000	.936000	.934000	.932000
2	.910116	.906304	.902500	.898704	.894916	.891136	.887364	.883600	.879844	.876096	.872356	.868624
3	.868251	.862801	.857375	.851971	.846591	.841232	.835897	.830584	.825294	.820026	.814781	.809558
4	.828311	.821387	.814506	.807669	.800875	.794123	.787415	.780749	.774125	.767544	.761005	.754508
5	.790209	.781960	.773781	.765670	.757627	.749652	.741745	.733904	.726130	.718421	.710779	.703201
6	.753859	.744426	.735092	.725855	.716716	.707672	.698724	.689870	.681110	.672442	.663867	.655383
7	.719182	.708694	.698337	.688111	.678013	.668042	.658198	.648478	.638881	.629406	.620052	.610817
8	.686099	.674677	.663420	.652329	.641400	.630632	.620022	.609569	.599270	.589124	.579129	.569282
9	.654539	.642292	.630249	.618408	.606765	.595317	.584061	.572995	.562115	.551420	.540906	.530571
10	.624430	.611462	.598737	.586251	.573999	.561979	.550185	.538615	.527264	.516129	.505206	.494492
11	.595706	.582112	.568800	.555766	.543003	.530508	.518275	.506298	.494574	.483097	.471863	.460866
12	.568304	.554170	.540360	.526866	.513681	.500800	.488215	.475920	.463910	.452179	.440720	.429527
13	.542162	.527570	.513342	.499469	.485942	.472755	.459898	.447365	.435148	.423239	.411632	.400320
14	.517222	.502247	.487675	.473496	.459701	.446281	.433224	.420523	.408169	.396132	.384465	.373098
15	.493430	.478139	.463291	.448875	.434878	.421289	.408097	.395292	.382862	.370798	.359090	.347727
16	.470732	.455188	.440127	.425533	.411394	.397697	.384427	.371574	.359125	.347067	.335390	.324082
17	.449079	.433339	.418120	.403405	.389179	.375426	.362131	.349280	.336859	.324855	.313254	.302044
18	.428421	.412539	.397214	.382428	.368163	.354402	.341127	.328323	.315974	.304064	.292579	.281505
19	.408714	.392737	.377354	.362542	.348282	.334555	.321342	.308624	.296383	.284604	.273269	.262363
20	.389913	.373886	.358486	.343690	.329475	.315820	.302704	.290106	.278008	.266389	.255233	.244522

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 YEARS	2 ADJUSTED PAYOUT RATE									
	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%	8.2%	8.4%	8.6%	9.0%
1	.930000	.928000	.926000	.924000	.922000	.920000	.918000	.916000	.914000	.910000
2	.864900	.861184	.857476	.853776	.850084	.846400	.842724	.839056	.835396	.831744
3	.804357	.799179	.794021	.788889	.783777	.778688	.773621	.768575	.763552	.758551
4	.748052	.741638	.735265	.728933	.722643	.716393	.710184	.704015	.697886	.691798
5	.695688	.688240	.680855	.673535	.666277	.659082	.651949	.644878	.637868	.630920
6	.646990	.638687	.630472	.622346	.614307	.606355	.598489	.590708	.583012	.575399
7	.601701	.592701	.583817	.575048	.566391	.557847	.549413	.541089	.532873	.524764
8	.559582	.550027	.540615	.531344	.522213	.513219	.504361	.495637	.487046	.478585
9	.520411	.510425	.500609	.490962	.481480	.472161	.463003	.454004	.445160	.436469
10	.483982	.473674	.463564	.453649	.443925	.434388	.425037	.415867	.406876	.398060
11	.450104	.439570	.429260	.419171	.409298	.399637	.390184	.380934	.371885	.363031
12	.418596	.407921	.397495	.387314	.377373	.367666	.358189	.348936	.339902	.331084
13	.389295	.378550	.368081	.357879	.347938	.338253	.328817	.319625	.310671	.301949
14	.362044	.351295	.340843	.330680	.320799	.311193	.301854	.292777	.283953	.275377
15	.336701	.326002	.315620	.305548	.295775	.286297	.277102	.268184	.259533	.251144
16	.313132	.302529	.292264	.282326	.272706	.263394	.254380	.245656	.237213	.229043
17	.291213	.280747	.270637	.260870	.251435	.242322	.233521	.225021	.216813	.208887
18	.270828	.260533	.250610	.241044	.231823	.222936	.214372	.206119	.198167	.190505
19	.251870	.241775	.232065	.222724	.213741	.205101	.196794	.188805	.181125	.173741
20	.234239	.224367	.214892	.205797	.197069	.188693	.180657	.172946	.165548	.158452

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

AGE	ADJUSTED PAYOUT RATE											
	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%	6.2%	6.4%	6.6%	6.8%
0	.08579	.08028	.07541	.07110	.06728	.06390	.06089	.05821	.05583	.05369	.05179	.05008
1	.06190	.05610	.05097	.04642	.04240	.03881	.03565	.03282	.03031	.02806	.02605	.02425
2	.06114	.05717	.05188	.04719	.04303	.03933	.03604	.03311	.03049	.02815	.02606	.02418
3	.06509	.05895	.05350	.04866	.04436	.04053	.03712	.03408	.03136	.02893	.02674	.02479
4	.06738	.06106	.05543	.05046	.04602	.04206	.03853	.03537	.03254	.03001	.02774	.02570
5	.06993	.06344	.05766	.05252	.04793	.04383	.04017	.03690	.03396	.03133	.02896	.02683
6	.07268	.06601	.06006	.05476	.05003	.04579	.04200	.03860	.03556	.03282	.03035	.02813
7	.07561	.06876	.06265	.05718	.05230	.04792	.04400	.04047	.03731	.03446	.03189	.02958
8	.07874	.07171	.06542	.05979	.05475	.05022	.04616	.04251	.03923	.03627	.03360	.03118
9	.08206	.07484	.06837	.06258	.05738	.05271	.04851	.04473	.04132	.03824	.03546	.03295
10	.08558	.07817	.07153	.06556	.06020	.05538	.05104	.04712	.04359	.04039	.03750	.03489
11	.08930	.08170	.07488	.06874	.06322	.05824	.05373	.04970	.04604	.04272	.03972	.03700
12	.09319	.08540	.07839	.07208	.06640	.06126	.05663	.05244	.04864	.04520	.04208	.03925
13	.09722	.08924	.08205	.07556	.06971	.06442	.05963	.05530	.05137	.04780	.04456	.04162
14	.10133	.09316	.08578	.07912	.07309	.06764	.06270	.05822	.05415	.05046	.04710	.04404
15	.10550	.09713	.08957	.08272	.07652	.07090	.06581	.06118	.05697	.05314	.04966	.04648
16	.10970	.10113	.09338	.08635	.07997	.07418	.06893	.06413	.05979	.05583	.05221	.04891
17	.11396	.10519	.09724	.09002	.08346	.07750	.07208	.06714	.06264	.05854	.05479	.05136
18	.11826	.10929	.10114	.09373	.08699	.08036	.07526	.07017	.06551	.06126	.05738	.05382
19	.12267	.11349	.10513	.09753	.09060	.08429	.07853	.07326	.06845	.06405	.06003	.05633
20	.12718	.11779	.10923	.10143	.09431	.08781	.08187	.07644	.07147	.06692	.06274	.05891
21	.13180	.12220	.11344	.10544	.09813	.09144	.08532	.07972	.07458	.06987	.06554	.06157
22	.13656	.12674	.11777	.10957	.10206	.09518	.08887	.08309	.07779	.07291	.06843	.06430
23	.14150	.13147	.12229	.11388	.10617	.09909	.09260	.08664	.08116	.07611	.07147	.06719
24	.14668	.13643	.12704	.11842	.11051	.10324	.09655	.09040	.08474	.07953	.07472	.07028
25	.15217	.14171	.13210	.12327	.11516	.10769	.10081	.09447	.08863	.08324	.07826	.07366
26	.15800	.14732	.13751	.12847	.12015	.11248	.10540	.09888	.09285	.08728	.08213	.07737
27	.16416	.15327	.14325	.13400	.12547	.11760	.11033	.10362	.09740	.09165	.08633	.08139
28	.17064	.15955	.14932	.13987	.13113	.12306	.11559	.10868	.10228	.09635	.09085	.08574
29	.17745	.16616	.15571	.14606	.13712	.12885	.12119	.11408	.10749	.10137	.09569	.09041
30	.18454	.17305	.16240	.15254	.14341	.13493	.12707	.11977	.11299	.10668	.10082	.09536
31	.19193	.18024	.16940	.15934	.15000	.14133	.13327	.12577	.11880	.11231	.10626	.10062
32	.19963	.18773	.17671	.16645	.15692	.14805	.13976	.13210	.12494	.11826	.11202	.10621
33	.20763	.19556	.18433	.17388	.16415	.15509	.14664	.13876	.13140	.12453	.11812	.11212
34	.21595	.20369	.19228	.18164	.17172	.16347	.15582	.14875	.14218	.13601	.13025	.12487
35	.22457	.21215	.20056	.18974	.17963	.17018	.16135	.15309	.14536	.13812	.13133	.12497
36	.23350	.22091	.20915	.19815	.18786	.17823	.16922	.16077	.15285	.14543	.13846	.13192
37	.24274	.22999	.21807	.20690	.19643	.18662	.17743	.16880	.16070	.15309	.14594	.13922
38	.25227	.23938	.22729	.21596	.20533	.19535	.18597	.17717	.16889	.16110	.15377	.14687
39	.26209	.24907	.23683	.22535	.21455	.20440	.19486	.18588	.17742	.16946	.16195	.15488
40	.27219	.25903	.24666	.23502	.22407	.21377	.20406	.19491	.18628	.17815	.17047	.16322
41	.28254	.26927	.25677	.24499	.23390	.22344	.21357	.20426	.19547	.18717	.17932	.17190
42	.29315	.27977	.26715	.25525	.24402	.23341	.22339	.21392	.20498	.19651	.18850	.18092
43	.30401	.29054	.27781	.26579	.25443	.24368	.23352	.22391	.21480	.20618	.19802	.19027
44	.31512	.30156	.28874	.27661	.26513	.25425	.24396	.23420	.22495	.21618	.20786	.19997
45	.32647	.31284	.29993	.28770	.27611	.26512	.25470	.24481	.23543	.22651	.21805	.21000
46	.33806	.32437	.31139	.29907	.28738	.27629	.26575	.25574	.24622	.23718	.22857	.22038
47	.34988	.33615	.32310	.31071	.29894	.28775	.27711	.26698	.25734	.24817	.23943	.23111
48	.36188	.34811	.33502	.32257	.31073	.29945	.28871	.27848	.26873	.25944	.25058	.24213
49	.37401	.36023	.34710	.33460	.32269	.31134	.30052	.29019	.28034	.27094	.26196	.25339
50	.38623	.37244	.35929	.34675	.33479	.32337	.31247	.30206	.29212	.28261	.27353	.26485
51	.39851	.38473	.37156	.35899	.34699	.33552	.32455	.31406	.30403	.29444	.28525	.27646
52	.41086	.39709	.38392	.37134	.35930	.34778	.33676	.32620	.31610	.30642	.29714	.28825
53	.42329	.40955	.39639	.38380	.37174	.36019	.34912	.33851	.32834	.31858	.30922	.30024
54	.43586	.42216	.40903	.39644	.38437	.37280	.36169	.35104	.34081	.33099	.32156	.31249

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

AGE	ADJUSTED PAYOUT RATE										
	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%	8.2%	8.4%	8.6%	8.8%	9.0%
0	.04854	.04716	.04592	.04480	.04378	.04285	.04201	.04125	.04055	.03991	.03932
1	.02263	.02118	.01987	.01870	.01763	.01667	.01580	.01500	.01428	.01362	.01302
2	.02250	.02098	.01961	.01838	.01727	.01626	.01534	.01451	.01375	.01306	.01243
3	.02303	.02144	.02001	.01872	.01755	.01649	.01553	.01466	.01386	.01314	.01247
4	.02386	.02220	.02071	.01935	.01813	.01702	.01601	.01509	.01425	.01348	.01278
5	.02491	.02318	.02161	.02020	.01891	.01774	.01668	.01571	.01483	.01402	.01329
6	.02613	.02432	.02268	.02119	.01984	.01862	.01750	.01648	.01556	.01470	.01392
7	.02749	.02559	.02388	.02232	.02091	.01962	.01845	.01738	.01640	.01550	.01468
8	.02900	.02702	.02523	.02360	.02224	.02077	.01953	.01841	.01738	.01643	.01556
9	.03067	.02861	.02673	.02503	.02347	.02205	.02076	.01958	.01849	.01749	.01658
10	.03251	.03036	.02840	.02661	.02498	.02350	.02214	.02089	.01975	.01870	.01774
11	.03452	.03227	.03023	.02836	.02665	.02510	.02367	.02236	.02116	.02006	.01904
12	.03667	.03433	.03219	.03024	.02846	.02682	.02533	.02396	.02270	.02154	.02047
13	.03894	.03649	.03426	.03222	.03036	.02865	.02708	.02564	.02432	.02310	.02198
14	.04125	.03870	.03637	.03425	.03230	.03051	.02887	.02736	.02597	.02469	.02351
15	.04358	.04093	.03850	.03628	.03424	.03238	.03066	.02908	.02762	.02628	.02504
16	.04590	.04314	.04061	.03829	.03617	.03421	.03242	.03076	.02924	.02783	.02653
17	.04823	.04536	.04272	.04031	.03809	.03605	.03417	.03243	.03083	.02936	.02799
18	.05056	.04757	.04483	.04231	.03999	.03786	.03589	.03408	.03240	.03085	.02942
19	.05295	.04984	.04698	.04435	.04193	.03970	.03765	.03575	.03399	.03237	.03086
20	.05539	.05216	.04918	.04644	.04392	.04159	.03943	.03744	.03560	.03390	.03232
21	.05791	.05455	.05145	.04854	.04595	.04352	.04126	.03918	.03725	.03546	.03380
22	.06051	.05701	.05378	.05080	.04804	.04550	.04314	.04096	.03894	.03706	.03531
23	.06325	.05961	.05625	.05314	.05026	.04760	.04514	.04285	.04073	.03876	.03692
24	.06619	.06240	.05890	.05566	.05266	.04988	.04730	.04490	.04268	.04061	.03868
25	.06941	.06548	.06183	.05846	.05533	.05242	.04972	.04721	.04488	.04270	.04068
26	.07296	.06887	.06508	.06156	.05829	.05525	.05243	.04980	.04735	.04507	.04294
27	.07682	.07257	.06863	.06497	.06156	.05839	.05544	.05269	.05012	.04773	.04549
28	.08100	.07659	.07249	.06868	.06513	.06182	.05874	.05586	.05317	.05066	.04831
29	.08550	.08093	.07667	.07271	.06901	.06556	.06234	.05933	.05651	.05388	.05142
30	.09028	.08554	.08113	.07700	.07316	.06956	.06620	.06305	.06011	.05735	.05476
31	.09537	.09046	.08588	.08160	.07760	.07385	.07033	.06706	.06398	.06110	.05839
32	.10077	.09570	.09095	.08651	.08235	.07845	.07480	.07137	.06815	.06513	.06229
33	.10651	.10126	.09634	.09173	.08741	.08336	.07956	.07599	.07263	.06947	.06650
34	.11258	.10716	.10207	.09730	.09281	.08860	.08465	.08093	.07742	.07413	.07102
35	.11900	.11340	.10814	.10320	.09856	.09419	.09008	.08620	.08255	.07911	.07587
36	.12577	.11999	.11456	.10945	.10464	.10011	.09584	.09182	.08802	.08443	.08105
37	.13289	.12694	.12134	.11606	.11108	.10639	.10196	.09778	.09383	.09010	.08657
38	.14037	.13425	.12847	.12302	.11788	.11303	.10844	.10410	.10000	.09612	.09244
39	.14821	.14191	.13596	.13035	.12504	.12002	.11527	.11078	.10652	.10249	.09866
40	.15638	.14991	.14380	.13801	.13254	.12735	.12245	.11779	.11338	.10920	.10522
41	.16489	.15825	.15197	.14602	.14038	.13504	.12997	.12516	.12059	.11625	.11213
42	.17374	.16694	.16049	.15438	.14857	.14307	.13784	.13287	.12815	.12366	.11939
43	.18293	.17597	.16936	.16308	.15712	.15145	.14607	.14094	.13607	.13142	.12700
44	.19247	.18535	.17858	.17214	.16602	.16020	.15466	.14938	.14435	.13955	.13498
45	.20235	.19508	.18815	.18156	.17529	.16931	.16361	.15818	.15300	.14806	.14334
46	.21259	.20516	.19809	.19135	.18493	.17880	.17295	.16737	.16204	.15694	.15208
47	.22318	.21561	.20840	.20151	.19494	.18866	.18267	.17694	.17147	.16623	.16122
48	.23406	.22636	.21901	.21199	.20527	.19886	.19272	.18685	.18123	.17585	.17070
49	.24520	.23737	.22989	.22273	.21588	.20933	.20305	.19704	.19129	.18577	.18048
50	.25654	.24859	.24098	.23369	.22671	.22003	.21362	.20747	.20158	.19592	.19050
51	.26804	.25998	.25225	.24484	.23773	.23092	.22438	.21810	.21208	.20629	.20073
52	.27973	.27155	.26371	.25618	.24896	.24202	.23536	.22895	.22280	.21688	.21119
53	.29162	.28334	.27539	.26776	.26042	.25336	.24658	.24005	.23378	.22773	.22192
54	.30379	.29542	.28737	.27963	.27218	.26502	.25812	.25148	.24508	.23892	.23298

TABLE E (1)

TABLE. SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

AGE	ADJUSTED PAYOUT RATE											
	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%	6.2%	6.4%	6.6%	6.8%
55	44859	43495	42186	40929	39723	38565	37452	36383	35356	34369	33419	32506
56	46150	44793	43489	42237	41032	39875	38761	37690	36660	35669	34714	33795
57	47458	46110	44813	43565	42365	41209	40096	39025	37993	36998	36040	35117
58	48776	47438	46150	44909	43713	42561	41451	40380	39347	38351	37391	36463
59	50097	48770	47492	46259	45069	43922	42814	41746	40714	39718	38755	37826
60	51414	50101	48833	47609	46427	45285	44182	43117	42087	41091	40129	39198
61	52726	51426	50170	48956	47783	46648	45551	44489	43463	42469	41507	40576
62	54032	52748	51505	50302	49138	48012	46921	45865	44842	43851	42891	41961
63	55334	54065	52837	51647	50493	49376	48293	47243	46225	45238	44281	43353
64	56633	55381	54168	52991	51850	50743	49669	48626	47615	46633	45680	44754
65	57929	56696	55499	54337	53208	52113	51049	50015	49011	48035	47087	46165
66	59221	58007	56828	55682	54568	53485	52432	51408	50412	49444	48502	47585
67	60510	59317	58156	57027	55928	54859	53818	52806	51820	50860	49925	49015
68	61796	60624	59481	58372	57290	56236	55209	54208	53233	52283	51356	50453
69	63082	61933	60813	59721	58657	57619	56606	55619	54656	53717	52800	51906
70	64369	63244	62146	61075	60030	59009	58013	57041	56091	55164	54259	53375
71	65659	64559	63485	62436	61411	60409	59431	58474	57540	56626	55733	54861
72	66950	65877	64828	63802	62799	61818	60858	59920	59002	58103	57224	56364
73	68243	67198	66175	65174	64194	63234	62295	61375	60475	59593	58730	57884
74	69534	68517	67522	66547	65591	64655	63738	62839	61957	61094	60247	59417
75	70820	69834	68867	67919	66990	66078	65183	64306	63445	62601	61773	60960
76	72103	71148	70211	69292	68389	67503	66633	65779	64940	64117	63308	62514
77	73381	72459	71553	70663	69789	68930	68086	67256	66441	65640	64852	64078
78	74650	73761	72888	72029	71184	70353	69536	68732	67942	67164	66399	65647
79	75897	75043	74202	73374	72560	71758	70969	70192	69428	68675	67934	67204
80	77113	76292	75484	74689	73905	73133	72372	71622	70884	70157	69440	68734
81	78273	77486	76710	75946	75192	74449	73716	72994	72282	71580	70888	70205
82	79361	78606	77861	77126	76401	75686	74981	74285	73598	72920	72251	71591
83	80383	79659	78943	78237	77540	76852	76172	75501	74838	74184	73538	72900
84	81371	80676	79990	79312	78642	77981	77327	76681	76043	75412	74789	74173
85	82363	81699	81043	80395	79753	79120	78493	77873	77260	76654	76055	75463
86	83324	82691	82065	81446	80833	80226	79627	79033	78446	77865	77291	76722
87	84255	83653	83057	82466	81882	81303	80730	80163	79602	79046	78496	77951
88	85152	84580	84013	83451	82895	82343	81798	81257	80721	80190	79665	79144
89	85997	85453	84914	84380	83851	83326	82806	82291	81780	81274	80772	80274
90	86771	86254	85741	85232	84728	84228	83733	83241	82754	82270	81791	81315
91	87471	86973	86489	86005	85523	85046	84573	84103	83637	83175	82716	82261
92	88104	87633	87166	86703	86243	85787	85334	84884	84438	83995	83555	83119
93	88671	88220	87773	87329	86889	86451	86017	85585	85157	84732	84309	83890
94	89177	88745	88316	87889	87466	87045	86627	86212	85800	85391	84984	84580
95	89639	89224	88811	88400	87992	87587	87185	86785	86387	85993	85600	85210
96	90091	89692	89295	88900	88508	88119	87731	87346	86964	86583	86205	85830
97	90522	90138	89757	89378	89001	88626	88253	87883	87514	87148	86784	86422
98	90932	90564	90197	89833	89470	89110	88751	88395	88040	87688	87337	86988
99	91324	90970	90617	90267	89919	89572	89227	88884	88542	88203	87865	87529
100	91697	91357	91018	90682	90347	90013	89681	89351	89022	88695	88370	88046
101	92054	91727	91402	91078	90756	90436	90116	89799	89482	89168	88854	88542
102	92398	92084	91772	91461	91152	90843	90536	90231	89926	89623	89321	89021
103	92735	92434	92135	91836	91539	91243	90948	90654	90361	90070	89779	89490
104	93076	92788	92501	92215	91930	91646	91363	91082	90801	90521	90242	89964
105	93443	93169	92896	92623	92352	92081	91811	91542	91274	91007	90741	90475
106	93886	93628	93372	93116	92860	92606	92352	92099	91846	91594	91343	91093
107	94513	94280	94047	93815	93583	93352	93121	92891	92661	92432	92203	91975
108	95379	95189	95000	94811	94621	94431	94242	94054	93865	93676	93488	93300
109	97700	97600	97500	97400	97300	97200	97100	97000	96900	96800	96700	96600

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

AGE	ADJUSTED PAYOUT RATE										
	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%	8.2%	8.4%	8.6%	8.8%	9.0%
55	.31627	.30782	.29968	.29185	.28430	.27703	.27003	.26328	.25677	.25049	.24444
56	.32910	.32057	.31235	.30443	.29680	.28944	.28233	.27548	.26887	.26249	.25632
57	.34226	.33367	.32539	.31739	.30968	.30223	.29504	.28809	.28138	.27490	.26864
58	.35569	.34705	.33870	.33065	.32286	.31534	.30807	.30104	.29424	.28767	.28131
59	.36928	.36060	.35221	.34410	.33625	.32867	.32132	.31422	.30734	.30069	.29424
60	.38298	.37427	.36584	.35768	.34979	.34214	.33474	.32757	.32062	.31389	.30736
61	.39675	.38802	.37956	.37137	.36343	.35574	.34828	.34105	.33404	.32723	.32064
62	.41059	.40185	.39338	.38516	.37719	.36945	.36195	.35467	.34760	.34074	.33407
63	.42452	.41578	.40729	.39906	.39106	.38330	.37576	.36843	.36132	.35440	.34768
64	.43855	.42982	.42133	.41309	.40508	.39730	.38973	.38237	.37522	.36826	.36149
65	.45269	.44398	.43551	.42727	.41926	.41146	.40387	.39649	.38931	.38231	.37550
66	.46693	.45825	.44980	.44158	.43357	.42577	.41818	.41078	.40358	.39656	.38971
67	.48128	.47264	.46423	.45603	.44803	.44025	.43265	.42525	.41803	.41100	.40413
68	.49573	.48715	.47878	.47061	.46265	.45488	.44730	.43990	.43268	.42564	.41876
69	.51033	.50182	.49350	.48538	.47746	.46972	.46217	.45478	.44758	.44053	.43365
70	.52511	.51667	.50842	.50037	.49250	.48480	.47728	.46993	.46274	.45571	.44884
71	.54007	.53172	.52356	.51558	.50777	.50014	.49266	.48535	.47820	.47120	.46435
72	.55522	.54698	.53892	.53103	.52330	.51573	.50832	.50107	.49396	.48700	.48019
73	.57055	.56244	.55448	.54669	.53906	.53158	.52425	.51706	.51002	.50311	.49634
74	.58603	.57803	.57022	.56255	.55502	.54764	.54040	.53330	.52633	.51950	.51279
75	.60162	.59379	.58611	.57857	.57116	.56390	.55676	.54976	.54288	.53613	.52949
76	.61734	.60967	.60215	.59475	.58749	.58035	.57334	.56645	.55967	.55300	.54648
77	.63317	.62569	.61834	.61111	.60400	.59701	.59013	.58337	.57672	.57018	.56375
78	.64907	.64178	.63462	.62756	.62062	.61379	.60707	.60046	.59394	.58753	.58122
79	.66485	.65778	.65081	.64395	.63719	.63054	.62398	.61753	.61117	.60490	.59873
80	.68038	.67352	.66676	.66010	.65354	.64707	.64069	.63440	.62820	.62209	.61607
81	.69532	.68868	.68213	.67567	.66930	.66301	.65682	.65070	.64467	.63872	.63285
82	.70940	.70297	.69663	.69037	.68419	.67809	.67206	.66612	.66025	.65446	.64874
83	.72270	.71648	.71033	.70426	.69827	.69235	.68650	.68072	.67501	.66938	.66381
84	.73564	.72963	.72368	.71781	.71200	.70626	.70059	.69498	.68944	.68396	.67854
85	.74877	.74298	.73725	.73158	.72598	.72044	.71495	.70953	.70417	.69886	.69361
86	.76159	.75602	.75051	.74506	.73966	.73432	.72903	.72380	.71862	.71350	.70843
87	.77412	.76878	.76349	.75825	.75307	.74793	.74285	.73781	.73283	.72789	.72300
88	.78628	.78117	.77611	.77109	.76612	.76119	.75631	.75148	.74668	.74194	.73723
89	.79781	.79293	.78808	.78328	.77852	.77380	.76912	.76448	.75989	.75533	.75081
90	.80844	.80376	.79913	.79453	.78997	.78544	.78096	.77651	.77209	.76771	.76337
91	.81810	.81362	.80917	.80476	.80039	.79604	.79173	.78746	.78322	.77901	.77483
92	.82686	.82256	.81829	.81406	.80985	.80568	.80154	.79742	.79334	.78929	.78526
93	.83474	.83060	.82650	.82242	.81837	.81435	.81036	.80639	.80246	.79855	.79466
94	.84179	.83780	.83384	.82991	.82600	.82212	.81827	.81444	.81063	.80685	.80310
95	.84823	.84438	.84056	.83676	.83298	.82922	.82550	.82179	.81811	.81444	.81081
96	.85456	.85085	.84716	.84349	.83984	.83622	.83261	.82903	.82547	.82193	.81841
97	.86062	.85704	.85348	.84994	.84642	.84292	.83944	.83598	.83254	.82911	.82571
98	.86641	.86295	.85952	.85611	.85271	.84933	.84597	.84263	.83930	.83600	.83271
99	.87194	.86861	.86530	.86201	.85873	.85547	.85222	.84900	.84578	.84259	.83941
100	.87724	.87403	.87084	.86766	.86450	.86135	.85822	.85510	.85200	.84891	.84583
101	.88231	.87922	.87614	.87308	.87001	.86699	.86397	.86096	.85796	.85498	.85201
102	.88722	.88424	.88127	.87832	.87537	.87244	.86953	.86662	.86373	.86085	.85798
103	.89202	.88915	.88629	.88345	.88061	.87779	.87497	.87217	.86938	.86660	.86383
104	.89688	.89412	.89137	.88863	.88591	.88319	.88048	.87778	.87509	.87241	.86974
105	.90211	.89947	.89684	.89422	.89161	.88900	.88641	.88382	.88124	.87867	.87611
106	.90843	.90594	.90345	.90097	.89850	.89604	.89358	.89113	.88868	.88624	.88381
107	.91747	.91519	.91292	.91065	.90839	.90614	.90388	.90163	.89939	.89715	.89492
108	.93312	.93125	.92937	.92750	.92563	.92376	.92189	.92003	.91816	.91630	.91444
109	.96500	.96400	.96300	.96200	.96100	.96000	.95900	.95800	.95700	.95600	.95500

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

2												
ADJUSTED PAYOUT RATE												
AGE	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%	6.2%	6.4%	6.6%	6.8%
0	.06451	.05997	.05602	.05256	.04954	.04690	.04458	.04255	.04076	.03918	.03778	.03655
1	.04555	.04079	.03664	.03301	.02984	.02706	.02463	.02249	.02061	.01895	.01749	.01620
2	.04619	.04128	.03700	.03324	.02996	.02708	.02455	.02232	.02037	.01864	.01711	.01576
3	.04751	.04245	.03802	.03414	.03074	.02775	.02512	.02281	.02077	.01897	.01737	.01596
4	.04911	.04389	.03932	.03531	.03179	.02869	.02596	.02355	.02143	.01955	.01788	.01641
5	.05090	.04552	.04081	.03666	.03301	.02979	.02696	.02445	.02224	.02028	.01854	.01700
6	.05284	.04731	.04244	.03815	.03437	.03104	.02809	.02549	.02318	.02113	.01932	.01770
7	.05496	.04926	.04424	.03981	.03590	.03244	.02938	.02667	.02427	.02213	.02023	.01854
8	.05723	.05136	.04617	.04160	.03755	.03397	.03079	.02797	.02547	.02324	.02126	.01949
9	.05965	.05361	.04826	.04353	.03935	.03563	.03234	.02941	.02680	.02448	.02241	.02056
10	.06222	.05600	.05049	.04561	.04128	.03743	.03401	.03096	.02825	.02583	.02367	.02173
11	.06493	.05853	.05286	.04782	.04334	.03935	.03581	.03264	.02982	.02729	.02504	.02301
12	.06779	.06121	.05536	.05016	.04553	.04140	.03772	.03444	.03150	.02887	.02652	.02440
13	.07076	.06400	.05797	.05261	.04783	.04356	.03974	.03633	.03327	.03053	.02808	.02587
14	.07385	.06690	.06070	.05517	.05022	.04581	.04185	.03831	.03513	.03228	.02972	.02741
15	.07705	.06991	.06353	.05782	.05272	.04815	.04405	.04038	.03708	.03411	.03144	.02903
16	.08035	.07301	.06644	.06056	.05530	.05057	.04633	.04252	.03909	.03600	.03321	.03070
17	.08376	.07622	.06947	.06341	.05797	.05309	.04869	.04474	.04118	.03797	.03507	.03245
18	.08728	.07955	.07260	.06636	.06075	.05570	.05116	.04706	.04336	.04002	.03700	.03427
19	.09094	.08300	.07586	.06944	.06365	.05844	.05373	.04948	.04564	.04217	.03903	.03618
20	.09476	.08662	.07928	.07267	.06670	.06131	.05645	.05205	.04806	.04445	.04118	.03821
21	.09874	.09038	.08285	.07604	.06989	.06433	.05930	.05474	.05061	.04686	.04345	.04036
22	.10283	.09431	.08658	.07958	.07324	.06750	.06230	.05758	.05329	.04940	.04586	.04263
23	.10719	.09842	.09047	.08328	.07675	.07083	.06546	.06057	.05613	.05209	.04840	.04505
24	.11170	.10271	.09456	.08716	.08045	.07434	.06879	.06374	.05913	.05494	.05111	.04762
25	.11640	.10720	.09884	.09124	.08432	.07803	.07230	.06707	.06231	.05796	.05398	.05035
26	.12130	.11188	.10331	.09551	.08840	.08191	.07600	.07060	.06566	.06115	.05702	.05324
27	.12640	.11677	.10798	.09997	.09266	.08599	.07989	.07431	.06920	.06453	.06024	.05631
28	.13173	.12188	.11288	.10466	.09715	.09028	.08399	.07823	.07295	.06811	.06366	.05958
29	.13726	.12719	.11798	.10955	.10184	.09477	.08829	.08234	.07689	.07187	.06727	.06303
30	.14302	.13273	.12331	.11467	.10675	.09948	.09281	.08668	.08104	.07585	.07108	.06668
31	.14898	.13848	.12884	.12000	.11187	.10440	.09753	.09121	.08539	.08002	.07508	.07052
32	.15518	.14446	.13461	.12555	.11722	.10955	.10248	.09597	.08996	.08442	.07930	.07457
33	.16161	.15068	.14061	.13135	.12280	.11493	.10766	.10096	.09476	.08903	.08374	.07884
34	.16828	.15714	.14687	.13739	.12864	.12056	.11309	.10619	.09980	.09389	.08842	.08334
35	.17521	.16385	.15337	.14368	.13473	.12644	.11878	.11168	.10510	.09900	.09335	.08809
36	.18238	.17083	.16014	.15024	.14108	.13259	.12472	.11743	.11065	.10437	.09853	.09310
37	.18982	.17806	.16717	.15707	.14770	.13901	.13094	.12344	.11648	.11000	.10397	.09836
38	.19751	.18556	.17446	.16416	.15459	.14569	.13742	.12973	.12257	.11590	.10969	.10389
39	.20546	.19331	.18201	.17151	.16174	.15264	.14417	.13628	.12893	.12207	.11566	.10969
40	.21366	.20132	.18984	.17914	.16917	.15987	.15120	.14312	.13556	.12851	.12192	.11576
41	.22212	.20960	.19793	.18704	.17687	.16738	.15851	.15023	.14248	.13523	.12845	.12211
42	.23084	.21814	.20628	.19520	.18485	.17516	.16610	.15762	.14968	.14224	.13527	.12873
43	.23982	.22695	.21492	.20365	.19311	.18323	.17398	.16530	.15717	.14954	.14238	.13566
44	.24907	.23604	.22383	.21239	.20166	.19160	.18216	.17329	.16497	.15715	.14980	.14289
45	.25861	.24542	.23305	.22143	.21053	.20028	.19065	.18160	.17309	.16508	.15754	.15044
46	.26843	.25509	.24256	.23079	.21971	.20929	.19948	.19024	.18154	.17335	.16563	.15834
47	.27852	.26505	.25237	.24044	.22920	.21860	.20862	.19920	.19033	.18195	.17404	.16657
48	.28890	.27531	.26249	.25040	.23900	.22825	.21809	.20850	.19945	.19089	.18280	.17515
49	.29955	.28583	.27289	.26066	.24911	.23820	.22788	.21812	.20889	.20016	.19190	.18407
50	.31043	.29664	.28358	.27122	.25953	.24846	.23799	.22807	.21867	.20977	.20133	.19333
51	.32163	.30772	.29454	.28207	.27024	.25904	.24841	.23834	.22878	.21971	.21110	.20292
52	.33306	.31907	.30579	.29321	.28126	.26992	.25915	.24893	.23922	.22998	.22121	.21287
53	.34478	.33072	.31736	.30467	.29261	.28115	.27025	.25988	.25002	.24064	.23171	.22320
54	.35682	.34270	.32928	.31650	.30434	.29277	.28175	.27125	.26125	.25172	.24264	.23398

TABLE E (2)

TABLE. SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

AGE	ADJUSTED PAYOUT RATE											
	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%	6.2%	6.4%	6.6%	6.8%
55	.36921	.35507	.34159	.32874	.31650	.30482	.29369	.28308	.27295	.26328	.25406	.24525
56	.38200	.36783	.35430	.34140	.32908	.31732	.30610	.29537	.28513	.27534	.26598	.25704
57	.39513	.38095	.36741	.35447	.34209	.33027	.31896	.30814	.29779	.28789	.27841	.26934
58	.40857	.39441	.38086	.36790	.35549	.34361	.33223	.32133	.31090	.30089	.29131	.28212
59	.42227	.40814	.39461	.38164	.36920	.35728	.34586	.33489	.32438	.31429	.30460	.29531
60	.43618	.42210	.40860	.39564	.38320	.37125	.35978	.34877	.33819	.32803	.31826	.30887
61	.45027	.43626	.42280	.40987	.39744	.38549	.37399	.36294	.35231	.34209	.33225	.32277
62	.46456	.45063	.43724	.42435	.41194	.40000	.38850	.37742	.36676	.35648	.34658	.33704
63	.47905	.46523	.45192	.43909	.42672	.41481	.40331	.39223	.38155	.37124	.36129	.35170
64	.49378	.48009	.46688	.45413	.44182	.42995	.41848	.40741	.39672	.38640	.37643	.36679
65	.50877	.49522	.48214	.46949	.45727	.44546	.43404	.42300	.41233	.40200	.39202	.38236
66	.52403	.51066	.49772	.48519	.47308	.46135	.45000	.43901	.42837	.41807	.40810	.39843
67	.53954	.52636	.51358	.50121	.48922	.47760	.46634	.45542	.44484	.43458	.42463	.41498
68	.55525	.54228	.52970	.51749	.50565	.49416	.48301	.47219	.46168	.45149	.44158	.43197
69	.57108	.55835	.54598	.53396	.52229	.51095	.49993	.48922	.47882	.46870	.45887	.44931
70	.58699	.57451	.56237	.55056	.53908	.52791	.51704	.50647	.49618	.48617	.47642	.46694
71	.60296	.59075	.57886	.56729	.55601	.54503	.53434	.52392	.51377	.50388	.49424	.48485
72	.61899	.60707	.59546	.58413	.57309	.56232	.55182	.54157	.53158	.52184	.51233	.50305
73	.63504	.62344	.61211	.60105	.59026	.57972	.56943	.55939	.54958	.54000	.53064	.52150
74	.65106	.63979	.62877	.61800	.60747	.59719	.58713	.57730	.56769	.55829	.54911	.54012
75	.66700	.65607	.64538	.63491	.62468	.61466	.60485	.59526	.58586	.57667	.56767	.55886
76	.68289	.67233	.66197	.65183	.64190	.63217	.62263	.61329	.60414	.59517	.58638	.57777
77	.69876	.68857	.67857	.66878	.65917	.64974	.64050	.63143	.62254	.61382	.60526	.59686
78	.71448	.70468	.69506	.68562	.67635	.66725	.65832	.64955	.64093	.63247	.62417	.61601
79	.72990	.72050	.71126	.70219	.69327	.68451	.67589	.66743	.65911	.65093	.64288	.63498
80	.74488	.73588	.72703	.71833	.70977	.70135	.69306	.68491	.67689	.66899	.66123	.65359
81	.75921	.75061	.74215	.73381	.72561	.71752	.70956	.70173	.69401	.68641	.67892	.67154
82	.77285	.76464	.75655	.74857	.74071	.73296	.72533	.71780	.71038	.70307	.69586	.68875
83	.78593	.77810	.77038	.76276	.75525	.74783	.74052	.73330	.72618	.71916	.71223	.70539
84	.79883	.79139	.78404	.77679	.76963	.76255	.75557	.74868	.74187	.73513	.72851	.72195
85	.81194	.80491	.79796	.79109	.78431	.77760	.77098	.76443	.75796	.75157	.74525	.73900
86	.82427	.81763	.81106	.80457	.79815	.79180	.78553	.77932	.77318	.76710	.76110	.75515
87	.83573	.82947	.82327	.81714	.81107	.80506	.79912	.79323	.78741	.78164	.77594	.77029
88	.84637	.84046	.83461	.82881	.82307	.81739	.81177	.80619	.80067	.79521	.78979	.78443
89	.85614	.85057	.84504	.83957	.83414	.82876	.82344	.81816	.81292	.80774	.80260	.79751
90	.86502	.85975	.85453	.84935	.84421	.83912	.83407	.82906	.82410	.81918	.81430	.80946
91	.87300	.86800	.86305	.85814	.85327	.84844	.84364	.83889	.83417	.82949	.82484	.82024
92	.88004	.87530	.87059	.86592	.86129	.85669	.85212	.84759	.84309	.83863	.83420	.82980
93	.88621	.88168	.87719	.87273	.86831	.86391	.85953	.85522	.85092	.84665	.84241	.83820
94	.89159	.88726	.88296	.87869	.87445	.87024	.86605	.86189	.85776	.85366	.84959	.84554

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1	2										
ADJUSTED PAYOUT RATE											
AGE	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%	8.2%	8.4%	8.6%	8.8%	9.0%
0	.03546	.03448	.03362	.03284	.03215	.03153	.03097	.03046	.03001	.02959	.02921
1	.01506	.01404	.01314	.01234	.01162	.01098	.01040	.00989	.00942	.00900	.00862
2	.01457	.01351	.01256	.01172	.01097	.01029	.00969	.00915	.00866	.00822	.00782
3	.01471	.01360	.01261	.01172	.01093	.01023	.00959	.00902	.00851	.00804	.00763
4	.01509	.01393	.01289	.01196	.01113	.01038	.00972	.00912	.00857	.00808	.00764
5	.01562	.01440	.01331	.01233	.01146	.01067	.00997	.00933	.00876	.00825	.00778
6	.01626	.01498	.01383	.01281	.01189	.01106	.01032	.00965	.00904	.00850	.00800
7	.01704	.01569	.01448	.01340	.01244	.01157	.01078	.01007	.00944	.00886	.00833
8	.01791	.01650	.01523	.01410	.01308	.01216	.01133	.01058	.00991	.00930	.00874
9	.01890	.01742	.01609	.01490	.01382	.01285	.01198	.01119	.01048	.00983	.00924
10	.02000	.01844	.01705	.01579	.01466	.01364	.01272	.01189	.01113	.01045	.00982
11	.02120	.01957	.01811	.01679	.01560	.01452	.01355	.01267	.01187	.01115	.01048
12	.02250	.02080	.01926	.01787	.01662	.01549	.01446	.01354	.01269	.01192	.01122
13	.02388	.02210	.02048	.01903	.01771	.01652	.01544	.01446	.01357	.01275	.01201
14	.02534	.02347	.02177	.02025	.01886	.01761	.01647	.01543	.01449	.01363	.01285
15	.02686	.02490	.02313	.02152	.02007	.01875	.01755	.01646	.01546	.01455	.01372
16	.02843	.02638	.02453	.02284	.02131	.01992	.01866	.01751	.01646	.01550	.01462
17	.03008	.02793	.02598	.02422	.02261	.02115	.01982	.01861	.01750	.01648	.01556
18	.03179	.02954	.02751	.02565	.02397	.02243	.02103	.01975	.01858	.01751	.01653
19	.03359	.03124	.02911	.02717	.02540	.02378	.02231	.02096	.01973	.01860	.01756
20	.03551	.03305	.03082	.02878	.02693	.02523	.02368	.02226	.02096	.01976	.01867
21	.03754	.03498	.03264	.03050	.02855	.02677	.02514	.02364	.02227	.02101	.01985
22	.03970	.03702	.03457	.03233	.03029	.02842	.02670	.02513	.02368	.02235	.02112
23	.04198	.03918	.03663	.03429	.03214	.03018	.02837	.02671	.02519	.02379	.02249
24	.04442	.04150	.03883	.03638	.03413	.03207	.03017	.02843	.02682	.02534	.02397
25	.04702	.04397	.04118	.03861	.03626	.03409	.03210	.03026	.02857	.02701	.02557
26	.04978	.04660	.04368	.04100	.03853	.03626	.03417	.03224	.03046	.02881	.02729
27	.05271	.04939	.04635	.04354	.04096	.03858	.03638	.03436	.03248	.03075	.02914
28	.05583	.05237	.04920	.04627	.04356	.04107	.03877	.03664	.03467	.03284	.03115
29	.05912	.05553	.05221	.04915	.04633	.04372	.04130	.03907	.03699	.03507	.03329
30	.06262	.05888	.05542	.05223	.04928	.04654	.04401	.04167	.03949	.03747	.03559
31	.06630	.06241	.05881	.05548	.05239	.04953	.04688	.04442	.04214	.04001	.03803
32	.07019	.06614	.06240	.05892	.05570	.05272	.04994	.04736	.04496	.04273	.04065
33	.07430	.07009	.06619	.06258	.05922	.05609	.05319	.05049	.04797	.04563	.04344
34	.07864	.07427	.07022	.06645	.06295	.05969	.05665	.05382	.05118	.04872	.04643
35	.08322	.07869	.07447	.07055	.06690	.06350	.06033	.05737	.05461	.05203	.04962
36	.08805	.08335	.07897	.07490	.07110	.06755	.06424	.06115	.05825	.05555	.05302
37	.09314	.08827	.08373	.07949	.07554	.07184	.06839	.06516	.06213	.05930	.05665
38	.09849	.09345	.08874	.08434	.08023	.07638	.07278	.06941	.06625	.06328	.06050
39	.10411	.09889	.09401	.08944	.08517	.08117	.07742	.07390	.07060	.06750	.06459
40	.10999	.10460	.09955	.09481	.09038	.08622	.08231	.07865	.07520	.07196	.06892
41	.11616	.11058	.10536	.10045	.09585	.09153	.08747	.08365	.08006	.07668	.07349
42	.12260	.11685	.11144	.10637	.10160	.09711	.09289	.08892	.08517	.08165	.07832
43	.12934	.12340	.11782	.11257	.10763	.10298	.09859	.09446	.09057	.08689	.08342
44	.13639	.13027	.12451	.11908	.11397	.10914	.10460	.10030	.09625	.09242	.08880
45	.14376	.13746	.13151	.12591	.12062	.11563	.11092	.10646	.10225	.09826	.09449
46	.15147	.14499	.13887	.13308	.12762	.12246	.11757	.11295	.10858	.10444	.10051
47	.15952	.15285	.14655	.14059	.13495	.12961	.12456	.11977	.11523	.11093	.10685
48	.16792	.16107	.15459	.14845	.14264	.13713	.13190	.12694	.12224	.11778	.11354
49	.17665	.16963	.16297	.15665	.15066	.14498	.13958	.13445	.12958	.12496	.12056
50	.18574	.17853	.17170	.16520	.15904	.15318	.14761	.14231	.13728	.13248	.12792
51	.19516	.18778	.18077	.17410	.16776	.16173	.15599	.15052	.14531	.14036	.13563
52	.20493	.19738	.19020	.18336	.17685	.17064	.16473	.15909	.15372	.14859	.14370
53	.21510	.20739	.20003	.19302	.18634	.17996	.17388	.16807	.16253	.15723	.15218
54	.22572	.21784	.21032	.20315	.19629	.18975	.18350	.17752	.17181	.16635	.16113

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

AGE	ADJUSTED PAYOUT RATE										
	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%	8.2%	8.4%	8.6%	8.8%	9.0%
55	.23684	.22881	.22113	.21379	.20678	.20007	.19365	.18751	.18164	.17601	.17062
56	.24848	.24030	.23247	.22498	.21781	.21094	.20437	.19806	.19203	.18624	.18069
57	.26065	.25233	.24436	.23672	.22940	.22238	.21565	.20919	.20300	.19705	.19134
58	.27331	.26486	.25675	.24897	.24151	.23434	.22746	.22086	.21451	.20841	.20255
59	.28639	.27782	.26959	.26168	.25408	.24678	.23975	.23300	.22651	.22026	.21425
60	.29984	.29117	.28282	.27479	.26706	.25963	.25248	.24559	.23895	.23256	.22641
61	.31366	.30488	.29643	.28829	.28045	.27289	.26561	.25859	.25182	.24529	.23900
62	.32785	.31898	.31043	.30219	.29424	.28657	.27917	.27203	.26514	.25848	.25205
63	.34244	.33350	.32487	.31654	.30849	.30072	.29321	.28595	.27894	.27216	.26561
64	.35748	.34848	.33978	.33137	.32324	.31538	.30777	.30041	.29329	.28640	.27973
65	.37301	.36397	.35522	.34674	.33854	.33060	.32291	.31546	.30825	.30125	.29448
66	.38907	.38000	.37121	.36269	.35444	.34643	.33867	.33115	.32385	.31677	.30990
67	.40563	.39655	.38774	.37919	.37090	.36285	.35503	.34745	.34008	.33293	.32598
68	.42263	.41357	.40476	.39620	.38789	.37981	.37196	.36432	.35691	.34969	.34268
69	.44002	.43098	.42219	.41364	.40532	.39723	.38936	.38170	.37424	.36698	.35992
70	.45771	.44872	.43996	.43144	.42314	.41505	.40718	.39950	.39203	.38474	.37764
71	.47570	.46678	.45808	.44960	.44133	.43327	.42541	.41774	.41026	.40297	.39585
72	.49400	.48517	.47655	.46813	.45992	.45190	.44407	.43643	.42897	.42168	.41456
73	.51257	.50384	.49532	.48699	.47885	.47089	.46312	.45552	.44809	.44083	.43373
74	.53133	.52274	.51433	.50611	.49806	.49019	.48249	.47495	.46757	.46036	.45329
75	.55023	.54179	.53352	.52542	.51749	.50972	.50211	.49465	.48735	.48020	.47319
76	.56932	.56105	.55293	.54498	.53718	.52954	.52204	.51469	.50748	.50041	.49348
77	.58862	.58054	.57261	.56482	.55718	.54968	.54232	.53510	.52801	.52104	.51421
78	.60799	.60012	.59239	.58480	.57733	.57000	.56280	.55572	.54877	.54194	.53522
79	.62720	.61956	.61205	.60466	.59739	.59025	.58322	.57631	.56951	.56283	.55625
80	.64606	.63866	.63138	.62421	.61715	.61021	.60337	.59664	.59001	.58349	.57706
81	.66428	.65712	.65007	.64313	.63629	.62955	.62291	.61636	.60992	.60356	.59730
82	.68174	.67484	.66802	.66131	.65468	.64815	.64171	.63536	.62910	.62292	.61683
83	.69864	.69198	.68541	.67892	.67252	.66621	.65997	.65382	.64775	.64175	.63584
84	.71548	.70908	.70277	.69653	.69037	.68428	.67827	.67233	.66647	.66067	.65495
85	.73283	.72672	.72069	.71473	.70884	.70301	.69725	.69156	.68593	.68036	.67486
86	.74928	.74346	.73771	.73202	.72640	.72083	.71532	.70987	.70448	.69916	.69387
87	.76470	.75917	.75369	.74827	.74291	.73759	.73233	.72713	.72197	.71687	.71182
88	.77912	.77386	.76865	.76348	.75837	.75331	.74829	.74332	.73839	.73351	.72868
89	.79246	.78746	.78250	.77759	.77272	.76789	.76311	.75836	.75366	.74900	.74438
90	.80466	.79990	.79518	.79050	.78586	.78126	.77669	.77217	.76768	.76322	.75881
91	.81567	.81113	.80663	.80217	.79774	.79335	.78899	.78466	.78037	.77611	.77189
92	.82544	.82111	.81681	.81254	.80831	.80410	.79993	.79578	.79167	.78759	.78353
93	.83402	.82986	.82574	.82165	.81758	.81355	.80954	.80556	.80161	.79768	.79378
94	.84153	.83753	.83357	.82963	.82572	.82183	.81797	.81413	.81032	.80653	.80277

TABLE F

TABLE 6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATION AND PAYOUT SEQUENCES.

1		2			
NUMBER OF MONTHS BY WHICH THE VAL- UATION DATE PRE- CEDES THE FIRST PAYOUT		FACTORS FOR PAYOUT AT THE END OF EACH:			
AT LEAST	BUT LESS THAN	ANNUAL PERIOD	SEMIANNUAL PERIOD	QUARTERLY PERIOD	MONTHLY PERIOD
.....	1	1.000000	.985643	.978516	.973784
1	2	.995156	.980869	.973776	.969057
2	3	.990136	.976117	.969059	.....
3	4	.985538	.971389	.964363	.....
4	5	.980764	.966684	.....	.....
5	6	.976014	.962001	.....	.....
6	7	.971286	.957341	.....	.....
7	8	.966581	.....	.....	.....
8	9	.961899	.....	.....	.....
9	10	.957239	.....	.....	.....
10	11	.952603	.....	.....	.....
11	12	.947988	.....	.....	.....
12	.....	.943396	.....	.....	.....

PAR. 2. Section 1.6012-3(a) is amended by adding a new subparagraph (6), at the end thereof, to read as follows:

(6) *Charitable remainder trusts.* Every fiduciary for a charitable remainder annuity trust (as defined in § 1.664-2) or a charitable remainder unitrust (as defined in § 1.664-3) shall make a return on Form 1041-B for each taxable year of the trust even though it is nonexempt because it has unrelated business taxable income. The return on Form 1041-B shall be made in accordance with the instructions for the form and shall be filed with the designated Internal Revenue office on or before the 15th day of the fourth month following the close of the taxable year of the trust. A copy of the instrument governing the trust, accompanied by a written declaration of the fiduciary under the penalties of perjury that it is a true and complete copy, shall be attached to the return for the first taxable year of the trust.

UNITrust

Sample provisions. Rev. Rul. 72-395

SAMPLE PROVISIONS - GOVERNING INSTRUMENT

CHARITABLE REMAINDER UNITRUST

REVENUE RULING 72 - 395

CHARITABLE REMAINDERS--The Tax Reform Act of 1969 imposed new requirements that must be satisfied by a charitable remainder trust in order for an income, gift, or estate tax deduction to be allowed for the transfer of the charitable remainder.

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SECTION 1. PURPOSE

The purpose of this Revenue Ruling is to set forth illustrative sample provisions for inclusion in the governing instrument of a charitable remainder trust that may be used to satisfy the requirements of section 664 of the Internal Revenue Code of 1954 and the Income Tax Regulations applicable thereto.

SEC. 2. BACKGROUND

.01 The Tax Reform Act of 1969 imposed new requirements which must be satisfied by a charitable remainder trust in order for an income, gift, or estate tax deduction to be allowed for the transfer of a remainder interest to charity. The new requirements are contained in section 664 of the Code and in the regulations promulgated thereunder.

.02 In general, a charitable remainder trust is a trust which provides for a specified distribution at least annually for life or a term of years, to one or more beneficiaries, at least one of which is not a charity, with an irrevocable remainder interest to be held for the benefit of, or paid over to, charity. In order to qualify under section 664 of the Code, the trust must satisfy the requirements of either a charitable remainder annuity trust or a charitable remainder unitrust.

SEC. 3. INSTRUCTIONS TO TAXPAYERS

.01 This Revenue Ruling contains sample illustrative provisions that may be included in the governing instrument of a charitable remainder annuity trust and a charitable remainder unitrust. These sample provisions include the mandatory provisions and certain permissible optional provisions referred to in the regulations. Provisions corresponding to these sample provisions will be accepted by the Internal Revenue Service in the absence of any showing that they are not enforceable under applicable local law.

.02 The language and format of the sample provisions included in this Revenue Ruling are merely examples of provisions which comply with the requirements and options in the regulations. There is no fixed language or format which must be used, and any other language or format that satisfies the requirements of the regulations will be acceptable. Incorporation of a regulatory requirement in the governing instrument of the trust by a short, specific, and descriptive reference to the requirement and its citation in the regulations will also be acceptable if such a reference incorporating the regulatory requirement into the governing instrument is effective under local law.

However, a general provision stating that the grantor or testator intends to create a charitable remainder trust and incorporating by general reference all necessary requirements of the Internal Revenue Code and regulations will not, by itself, be sufficient.

.03 The trust instrument must create a valid trust under applicable local law in order to qualify as a charitable remainder trust. Thus, in addition to complying with the regulations, the trust instrument should incorporate any additional provisions relating to charitable trusts that are required under applicable local law.

.04 The trust instrument may contain provisions in addition to those provisions which are intended to satisfy the requirements of the regulations, but care should be taken to determine that such provisions are not in conflict with the regulations.

organization described in section 170 (c) of the Code Section 1.664-3 (a) (5) provides that the fixed percentage of such value may be payable for either the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

The trustee shall pay to A in each taxable year of the trust during his life a unitrust amount equal to Y percent of the net fair market value of the trust assets valued as of the first day of each taxable year of the trust. The unitrust amount shall be in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the unitrust amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) 5 Percent test. The unitrust percentage must be at least 5 percent. See section 1.664-3 (a) (2) (i).

(2) Source of payment. The unitrust amount may be paid from trust income or principal, but it must be paid from either of the two in all events. It should be noted that, in some jurisdictions, the payment of the unitrust amount may be restricted to the income of the trust unless otherwise indicated. In such jurisdictions, it is necessary that such restrictions be removed by the governing instrument of the trust. The above provision removes such restrictions. Any income of the trust in excess of the unitrust amount may, but need not, be added to principal. Care should be taken, however, to assure that, under applicable local law, such excess income is retained by the trust. The above provision so provides.

(3) Payment of the unitrust amount in installments. The unitrust amount may be paid to the recipient annually or in equal or unequal installments throughout the year. The first and each succeeding installment should fall due at the end of the period to which it applies. The amount of the charitable deduction will be affected by the frequency of payment, by whether the installments are equal or unequal, and by whether each installment must await the end of the period for which it is paid.

(4) Term of years. As an alternative to the payment of the unitrust amount for the recipient's life, the unitrust amount may be paid to the recipient for a term of years (not to exceed 20 years). See section 1.664-3 (a) (5) (i).

(5) Concurrent or successive recipients. The unitrust amount may be paid to concurrent or successive recipients so long as the 5 percent test is met. See section 1.664-3(a) (5) (i).

(6) Payment of a portion of the unitrust amount to charity. Any part, but not all, of the unitrust amount may be paid to charity instead of to a noncharitable recipient. See section 1.664-3(a) (3) (i).

(7) Valuation date. The governing instrument may provide that the trust assets be valued, for example, as of the first business day of each taxable year. See section 1.664-3 (a) (1) (iv).

(8) Amount of charitable deduction. The amount of the charitable deduction will be affected by the period of time between the valuation date and the payment date or dates and by the frequency of payment. See section 1.664-4.

SEC. 6 CHARITABLE REMAINDER UNITRUST; MANDATORY PROVISIONS

.01 Under section 1.664-3 (a) (1) (i) (a) of the regulations, one of the requirements of a charitable remainder unitrust is that the governing instrument of the trust provide that the trust shall pay, not less often than annually, a fixed percentage of the net fair market value of the trust assets, determined annually, to one or more persons described in section 1.664-3 (a) (3) for the period specified in section 1.664-3 (a) (5). Section 1.664-3 (a) (2) (i) provides that the fixed percentage must be at least 5 percent. Section 1.664-3 (a) (3) provides that the fixed percentage of such value must be payable to or for the use of a named person or persons, at least one of which is not an

.02 Under section 1.664-3 (a) (6) (i), the entire corpus of the trust must be irrevocably transferred, in whole or in part, to or for the use of one or more organizations described in section 170 (c) of the Code or retained, in whole or in part, for such use upon the termination of the noncharitable interests. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

Upon the death of A, the trustee shall distribute all of the then principal and income of the trust, other than any amount due A, to M charity.

The following comments pertain to the sample provision described above:

(1) Permissible remaindermen. M charity must be an organization described in section 170 (c) of the Code at the time of the transfer to the charitable remainder unitrust. See section 1.664-3 (a) (6) (i). If a deduction is sought under section 2055 or 2522 of the Code, M charity must also be an organization described in section 2055 (a) or 2522 (a) or (b), respectively, of the Code.

(2) Permissible dispositions of remainder interest. Upon the termination of the noncharitable interest, the charitable remainder may be distributed outright to one or more charities, may be held in further trust for one or more charities, may be held in further trust for charitable purposes, or any combination of the foregoing. See section 1.664-3 (a) (6) (i).

.03 Under section 1.664-3 (a) (6) (iv), the governing instrument of the trust shall provide that, in the event that an organization to or for the use of which the trust corpus is to be transferred or retained is not an organization described in section 170 (c) of the Code at the time when any amount is to be irrevocably transferred to or for the use of such organization, such amount shall be transferred to or for the use of or retained for the use of one or more alternative organizations which are described in section 170 (c) at such time.

The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

If M charity is not an organization described in section 170 (c) of the Internal Revenue Code of 1954 at the time when any principal or income of the trust is to be distributed to it, the trustee shall distribute such principal or income to one or more organizations then described in section 170 (c) as the trustee shall select in his sole discretion.

The following comments pertain to the sample provision described above:

(1) Manner of selection of alternative charitable remaindermen. One or more alternate charities may be selected in any manner provided in the trust instrument. See section 1.664-3 (a) (6) (iv).

(2) Cross References. See comments (1) and (2) in section 6.02.

.04 Under section 1.664-3 (a) (1) (iii), the governing instrument of the trust shall provide that, in the case where the net fair market value of the trust assets is incorrectly determined by the fiduciary, the trust shall pay to the recipient (in the case of an undervaluation) or be repaid by the recipient (in the case of an overvaluation) an amount equal to the difference between the amount which the trust should have

paid the recipient if the correct value were used and the amount which the trust actually paid the recipient. The following is a sample provision for inclusion in the governing instrument which satisfies the requirement of the mandatory provision described in this subsection:

If the net fair market value of the trust assets is incorrectly determined by the fiduciary for any taxable year, then within a reasonable period after the final determination of the correct value, the trustee shall pay to A in the case of an undervaluation or shall receive from A in the case of an overvaluation an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.

.05 Under section 1.664-3 (a) (1) (v) (a), the governing instrument shall provide that, in the case of a taxable year which is for a period of less than 12 months, the unitrust amount required to be paid shall be the fixed percentage of the net fair market value of the trust assets for such year multiplied by a fraction the numerator of which is the number of days in the taxable year of the trust and the denominator of which is 365 (366 if February 29 is a day included in the numerator).

Section 1.664-3 (a) (1) (v) (b) provides that, in the case of the taxable year in which occurs the termination of the noncharitable interests, the unitrust amount required to be paid shall be the fixed percentage of the net fair market value of the trust assets for such year multiplied by a fraction the numerator of which is the number of days between the beginning of such taxable year and the termination of such noncharitable interests and the denominator of which is 365 (366 if February 29 is a day included in the numerator). The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

In determining the unitrust amount, the trustee shall prorate the same, on a daily basis, for a short taxable year and for the taxable year of A's death.

The following comments pertain to the sample provision described above:

(1) Valuation date. If a valuation date other than the first day of the taxable year is selected, section 1.664-3 (a) (1) (v) (a) (3) and (b) (1) (iii) provides that the governing instrument of the trust must also provide that where no valuation date occurs in a taxable year of the trust which is a short taxable year or which is the taxable year in which the noncharitable interests terminate, the trust assets shall be valued as of the last day of such short taxable year or as of the day on which such noncharitable interests terminate.

.06 Under section 1.664-3 (b), the governing instrument shall provide either that no additional contributions may be made to the trust after the initial contribution or that the unitrust amount for the taxable year of a contribution shall be computed by multiplying the fixed percentage by the sum of (1) the net fair market value of the trust assets (excluding the value of the additional contribution and any earned income from and any appreciation on such property after its contribution) and (2) that proportion of the value of the additional property (that was excluded under (1)) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of such taxable year or the last day of the period described in section 1.664-3 (a) (5) bears to the number of days in the period which begins with the first day of such taxable year and ends with the earlier of the last day of such taxable year or the last day of the period described in section 1.664-3 (a) (5).

If additional contributions are not prohibited, section 1.664-3 (b) also provides that the governing instrument shall provide that, where no valuation date occurs after the time of the contribution and during the taxable year in which the contribution is made, the additional property shall be valued as of the time of contribution. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

If any additional contributions are made to the trust after the initial contribution in trust, the unitrust amount for the taxable year in which the assets are added to the trust shall be Y percent of the sum of (a) the net fair market value of trust assets (excluding the assets so added and any income from, or appreciation on, such assets) and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of the taxable year or A's death bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day in such taxable year or A's death. In the case where there is no valuation date after the time of contribution, the assets so added shall be valued at the time of contribution.

The following comments pertain to the sample provision described above:

(1) No additional contributions. In lieu of the above provision, the governing instrument may provide that no additional contribution shall be made to the trust.

(2) Property passing by reason of death. All property passing to the trust by reason of death of the grantor shall be considered one contribution. See section 1.664-3(b).

.07 Section 4947 (a)(2) of the Code makes section 508(e) of the Code applicable to a charitable remainder unitrust to the extent that other provisions of chapter 42 of the Code are also made applicable to such a trust. Section 4947(a)(2) makes sections 4941, 4943, 4944, and 4945 of the Code applicable to such trusts except for the payment of the unitrust amount to the income beneficiary. Section 4947(b) (3)(B) of the Code excludes such trusts from the application of sections 4943 and 4944 of the Code in cases where a deduction was allowed for amounts going to every remainder beneficiary but not to any income beneficiary. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

Except for the payment of the unitrust amount to A, the trustee is prohibited from engaging in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code of 1954, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the trust to tax under section 4943 of the Code, from making any investments which would subject the trust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. The trustee shall make distributions at such time and in such manner as not to subject the trust to tax under section 4942 of the Code.

The following comments pertain to the sample provision described above:

(1) Rule if part of the unitrust amount is paid to charity. The governing instrument of the trust must prohibit the trustee from engaging in activities described in sections 4943 and 4944 of the Code during any period in

which any part of the unitrust amount is paid to charity. The above provision satisfies this requirement.

(2) Application of provisions after the trust ceases to be a charitable remainder unitrust. To retain its exempt status after the trust ceases to be a charitable remainder unitrust, the trust's governing instrument must also prohibit the trustee from engaging in any activities described in sections 4943 and 4944 of the Code and must require the trustee to distribute property at such times and in such manner as not to subject the trust to tax under section 4942 of the Code during any period after the date the trust is no longer treated as a trust described in section 4947(a)(2) of the Code and the regulations thereunder. The above provision satisfies this requirement. See section 1.664-3(a) (6)(ii).

(3) Application of state law. See section 13.8(b) of the Temporary Income Tax Regulations under the Tax Reform Act of 1969 providing for the satisfaction of the requirements of section 508(e) of the Code by applicable provisions of state law. If these requirements are satisfied by applicable provisions of state law, there is no need specifically to refer to them in the trust agreement.

SEC. 7 CHARITABLE REMAINDER UNITRUST: OPTIONAL PROVISIONS

.01 Under section 1.664-3(a)(1)(i)(b), the trust may pay, instead of the regular unitrust amount (the fixed percentage of the net fair market value of the trust assets, determined annually), either the first of the following amounts or the sum of the first and second of the following amounts:

(1) The amount of trust income (as defined in section 643(b) and the regulations thereunder) for the taxable year to the extent that such amount is not more than the amount required to be distributed as the regular unitrust amount for the taxable year.

(2) The amount of the trust income for a taxable year which is in excess of the regular unitrust amount for that taxable year to the extent that the aggregate of the amounts paid in prior years was less than the aggregate of the regular unitrust amounts for those prior years.

Section 1.664-3(a)(1)(v)(a)(2) and (b)(1)(ii), in effect, provides that in a short taxable year and in the taxable year in which the noncharitable interests terminate, the amount determined under section 1.664-3(a)(1)(i)(b) shall be computed on the basis of the income for the taxable year and the prorated regular unitrust amount. The prorated regular unitrust amount is determined under section 1.664-3(a)(1)(v)(a)(1) and (b)(1)(i). The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the optional provision described in this subsection:

The trustee shall pay to A in each taxable year of the trust during his life an amount equal to the lesser of (a) the trust income for such taxable year (as defined in section 643(b) of the Internal Revenue Code of 1954 and the regulations thereunder) and (b) Y percent of the net fair market value of the trust assets valued as of the first day of such taxable year decreased as elsewhere provided in the case where the taxable year is a short taxable year or is the taxable year in which A dies and increased as elsewhere provided in the case where there are additional contributions in the taxable year. If the trust income for any taxable year exceeds the amount determined under (b), the payment to A shall also include such excess income to the extent that the aggregate of the amounts paid to A in prior years is less than Y percent of the aggregate net fair market value of the trust assets for such years. Payments to A shall be made in quarterly installments. Any income of the trust in excess of such payments shall be added to principal.

The following comments pertain to the sample provision described above:

(1) Makeup of deficiencies not required. If it is desired to use the above provision, the second sentence, increasing the unitrust amount by the income in excess of the fixed percentage to the extent of deficiencies between the income and the regular unitrust amount in prior years, is optional.

(2) Computation of charitable deduction. It should be noted that, notwithstanding the above provision, the computation of the charitable deduction will be determined on the basis that the regular unitrust amount will be distributed in each taxable year of the trust.

(3) Provisions replaced. The optional provision set forth above may be used in lieu of the provision set forth in section 6.01. In addition, the above provision assumes that the governing instrument does not prohibit additional contributions. See section 6.06.

(4) Cross references. See comments (1) through (8) in section 6.01.

.02 Section 1.664-1(a) (5) (i) provides, in effect, that a deduction is not allowable under section 2055 or 2106 of the Code unless the obligation to pay the unitrust amount with respect to the property passing in trust at the date of death begins as of the date of death of the decedent. Nonetheless, the requirement to pay such amount may be deferred until the end of the taxable year of the trust in which occurs the complete funding of the trust if such deferral is permitted by applicable local law or authorized by the provisions of the governing instrument. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the optional provision described in this subsection:

All the rest, residue and remainder of my property and estate, real and personal, of whatever nature and wherever situated, I give, devise, and bequeath to my trustee in trust, to invest and reinvest the same during the life of A and in each taxable year of the trust to pay, in equal quarterly installments, to A, a unitrust amount equal to Y percent of the net fair market value of the trust assets valued as of the first day of each taxable year of the trust. The unitrust amount shall be paid from income and, to the extent income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the unitrust amount shall be added to principal.

The obligation to pay the unitrust amount shall commence with the date of my death, but payment of the unitrust amount may be deferred from the date of my death to the end of the taxable year of the trust in which occurs the complete funding of the trust. Within a reasonable time after the occurrence of said event, the trustee shall pay the amount determined under the method described in section 1.664-1 (a) (5) (ii) of the Federal Income Tax Regulations less the sum of any amounts previously distributed and interest thereon computed at 6 percent a year, compounded annually, from the date of distribution to the occurrence of said event.

The following comments pertain to the sample provision described above:

(1) Deferral and computation of unitrust amount for period of administration. The second paragraph of the above provision may be included in cases where funds pass to a charitable remainder unitrust by reason of death, but the actual amount passing in trust may not be known until the trust has been completely funded. The cited section of the regulations contains a formula under which the unitrust

amount may be retroactively computed during a reasonable period of administration or settlement.

(2) Incorporation by reference. If the reference to the regulations is not effective under the law governing the trust to incorporate the regulatory provision into the governing instrument, the formula contained in the regulations should be restated in the governing instrument.

(3) Provisions replaced. The optional provision set forth above may be used in lieu of the provision set forth in section 6.01.

(4) Cross references. See comments (1) through (8) in section 6.01.

.03 Under section 1.664-2 (a) (3) (ii), a trust is not a charitable remainder trust if any person has the power to alter the amount to be paid to any named person, other than an organization described in section 170 (c) of the Code, if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E (sections 671 through 678 of the Code) were applicable to the trust. Consequently, it is possible to grant to the trustee the power to allocate the unitrust amount among members of a class if such power comes within the exception to section 674 (a) provided in section 674 (c). The following is a sample provision for inclusion in the governing instrument of such a power:

The trustee shall pay, in each taxable year of the trust, a unitrust amount equal to Y percent of the net fair market value of the trust assets valued as of the first day of such taxable year to such member or members of a class of persons consisting of A, B, and C in such amounts and proportions as the trustee in its absolute discretion shall from time to time determine until the last to die of A, B, and C. The trustee may pay the unitrust amount to any one member of said class or may apportion it among the various members in such manner as the trustee shall from time to time deem advisable. The unitrust amount shall be paid first from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the unitrust amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) Gifts to a class. A, B, and C must be individuals living at the creation of the trust. The unitrust amount may be allocated among members of a class such as "children" or "issue" for their lives, provided that the class is closed and all members of the class are living and ascertainable at the creation of the trust. The unitrust amount may also be allocated among the members of such a class for a term of years (not to exceed 20 years), in which event the members of the class need not be living or ascertainable at the creation of the trust. See section 1.664-3 (a) (3) (i).

(2) Type of power. The power to allocate the unitrust amount among members of a class must not cause any person to be treated as the owner of any part or all of the trust under the rules of sections 671 through 678 of the Code. See section 1.664-3 (a) (3) (ii).

(3) Power to delay payment not permitted. The power to allocate the unitrust amount may not include a power to delay payment of the unitrust amount. Thus, the entire unitrust amount must be paid out for each taxable year of the trust. See section 1.664-3 (a) (1) (i).

(4) Provisions replaced. The optional provision set forth above may be used in lieu of the provision set forth in section 6.01.

(5) Cross references. See comments (1) through (8) in section 6.01.

.04 Under section 1.664-3 (a) (1) (i), the fixed percentage amount must be the same either as to each recipient or as to the total of the percentages payable for each year of the term of years or the lives of the recipients. However, under sections 1.664-3 (a) (1) (ii) and 1.664-3 (a) (2) (ii), the fixed percentage may be reduced at the death of a recipient or expiration of a term of years if: (1) the reduced percentage is the same either as to each recipient or as to the total percentage payable each year for the balance of the period during which unitrust amounts are to be paid, (2) there is a distribution to an organization described in section 170 (c) of the Code at the death of the recipient or expiration of the term of years, and (3) the total of the percentages payable each year after such distribution are not less than 5 percent. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the optional provision described in this subsection:

During the joint lives of A and B, the trustee shall, in each taxable year of the trust, pay to A a unitrust amount equal to X percent of the net fair market value of the trust assets valued as of the first day of such taxable year and pay to B a unitrust amount equal to Y percent of the net fair market value of the trust assets valued as of the first day of such taxable year. The unitrust amounts shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the unitrust amounts shall be added to principal. Upon the death of the first to die of A and B, the trustee shall distribute \$Z (or P percent of the trust assets) to M charity, and thereafter the trustee shall pay to the survivor of A and B for his life a unitrust amount in each taxable year of the trust equal to 5 percent of the net fair market value of the trust assets valued as of the first day of such taxable year.

The following comments pertain to the sample provision described above:

(1) 5 Percent test. The sum of X and Y must not be less than 5 percent. See section 1.664-3 (a) (2) (i).

(2) Unitrust amount larger than minimum amount provided above. The above provision describes the minimum unitrust amount which must be paid to the survivor of A and B. The unitrust amount paid to the survivor of A and B may be greater than that provided, but in no event may it exceed the total of the percentages paid to A and B during their joint lives.

(3) Provisions replaced. The optional provision set forth above may be used in lieu of the provisions set forth in sections 6.01 and 6.02.

(4) Cross references. See comments (2) through (8) in section 6.01 and comments (1) and (2) in section 6.02. See section 7.05 for rules requiring the adjusted basis of assets distributed to charity in kind to be fairly representative of the adjusted basis of all assets available for distribution on the date of distribution.

.05 Under section 1.664-3 (a) (4), the governing instrument may provide that any amount, other than the unitrust amount, shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170 (c) of the Code provided that, in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the optional provision described in this subsection:

During the life of A, the trustee may pay to M charity any income of the trust in excess of the unitrust amount payable to A for the taxable year of the trust in which the income is earned. The adjusted basis for Federal income tax purposes of any trust property which the trustee distributes in kind to charity during the life of A must be fairly representative of the adjusted basis for such purposes of all trust property available for distribution on the date of distribution.

The following comment pertains to the sample provision described above:

Permitted distributions to charity. The governing instrument may permit or require distributions of trust assets to charity prior to the termination of all noncharitable interests. In such cases, the above provision with respect to adjusted basis is mandatory unless the governing instrument prohibits the trustee from satisfying such distributions in kind.

.06 Under section 1.664-3 (a) (5) (i), the payment of the unitrust amount may terminate with the regular payment next preceding the termination of all noncharitable interests. The following is a sample provision for inclusion in the governing instrument of the optional provision described in this subsection:

The trustee shall pay to A in each taxable year of the trust during his life a unitrust amount equal to Y percent of the net fair market value of the trust assets valued as of the first day of such taxable year. However, the obligation of the trustee to pay such unitrust amount shall terminate with the payment next preceding the death of A. The unitrust amount shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the unitrust amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) Provisions replaced. The optional provision set forth above may be used in lieu of the provision set forth in section 6.01.

(2) Cross references. See comments (1) through (8) in section 6.01.

.07 Under section 1.664-3 (a) (4), the grantor of the trust may retain the power, exercisable only by will, to revoke or terminate the interest of any recipient other than an organization described in section 170 (c) of the Code. The following is a sample provision for inclusion in the governing instrument of such a power:

The trustee shall pay to the settlor during his life a unitrust amount equal to Y percent of the net fair market value of the trust assets valued as of the first day of each taxable year of the trust and upon the death of the settlor, if B survives him, the trustee shall pay to B during her life a unitrust amount equal to Y percent of the net fair market value of the trust assets valued as of the first day of each taxable year. The settlor hereby expressly reserves the power, exercisable only by his will, to revoke and terminate the interest of B under this trust. Upon the first to occur of (i) the death of the survivor of the settlor and B or (ii) the death of the settlor if he effectively exercises his testamentary power to revoke and terminate the interest of B, the trustee shall distribute all of the then principal and income of the trust, other than any amount due A or B, to M charity.

The unitrust amount shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the unitrust amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) Provision replaced. The optional provision set forth above may be used in lieu of the provisions set forth in sections 6.01 and 6.02.

(2) Cross references. See comments (1) through (8) in section 6.01 and comments (1) and (2) in section 6.02.

.08 Under section 1.664-1 (a) (3), the provisions of the trust may not include any provisions which restrict the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets. The following is a sample provision for inclusion in the trust instrument which insures that the requirement described in this subsection is met:

Nothing in this trust instrument shall be construed to restrict the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

.09 Under section 1.664-1 (a) (4), in order for a trust to be a charitable remainder unitrust, the trust must function exclusively as a charitable remainder unitrust from its creation. Consequently, a revocable inter vivos trust which is used to administer the estate of the decedent cannot qualify as a charitable remainder unitrust. However, the regulations permit the revocable inter vivos trust to distribute assets to another trust which does qualify as a charitable remainder unitrust. The following is a sample provision for inclusion in the governing instrument of the revocable inter vivos trust which provides that the revocable inter vivos trust will be used to partially administer the estate of the decedent and then distribute assets to another trust which is a charitable remainder unitrust:

The trustee shall pay to A all of the income from the trust assets for A's life, during which the trust shall be fully revocable by A. Upon A's death the trust shall become irrevocable and the trustee shall pay all debts, taxes and other expenses of the administration of A's estate. After the payment or satisfaction of all such debts, taxes and expenses, the trustee shall transfer all of the then principal and income of the trust to the trustee of the charitable remainder unitrust hereinafter established to be held, administered and distributed in the manner and according to the terms and conditions hereinafter provided.

The following comments pertain to the sample provision described above:

(1) Trust provisions during life. There are no restrictions on the dispositive provisions of the above trust during the period it is fully revocable.

(2) Provisions for both trusts in same instrument. The same governing instrument may provide for both the revocable inter vivos trust and the charitable remainder unitrust, and both trusts may have the same trustee.

SEC. 8. REQUESTS FOR RULINGS

Requests for rulings on the governing instruments of charitable remainder trusts should be submitted in compliance with the general procedures contained in Revenue Procedure 72-3, I.R.B. 1972-1, 9, pertaining to the issuance of rulings, and should be addressed to the Assistant Commissioner (Technical), Attention: T:PS:T (T:L:I), Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C., 20224.

The unitrust amount shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the unitrust amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) Provision replaced. The optional provision set forth above may be used in lieu of the provisions set forth in sections 6.01 and 6.02.

(2) Cross references. See comments (1) through (8) in section 6.01 and comments (1) and (2) in section 6.02.

.08 Under section 1.664-1 (a) (3), the provisions of the trust may not include any provisions which restrict the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets. The following is a sample provision for inclusion in the trust instrument which insures that the requirement described in this subsection is met:

Nothing in this trust instrument shall be construed to restrict the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

.09 Under section 1.664-1 (a) (4), in order for a trust to be a charitable remainder unitrust, the trust must function exclusively as a charitable remainder unitrust from its creation. Consequently, a revocable inter vivos trust which is used to administer the estate of the decedent cannot qualify as a charitable remainder unitrust. However, the regulations permit the revocable inter vivos trust to distribute assets to another trust which does qualify as a charitable remainder unitrust. The following is a sample provision for inclusion in the governing instrument of the revocable inter vivos trust which provides that the revocable inter vivos trust will be used to partially administer the estate of the decedent and then distribute assets to another trust which is a charitable remainder unitrust:

The trustee shall pay to A all of the income from the trust assets for A's life, during which the trust shall be fully revocable by A. Upon A's death the trust shall become irrevocable and the trustee shall pay all debts, taxes and other expenses of the administration of A's estate. After the payment or satisfaction of all such debts, taxes and expenses, the trustee shall transfer all of the then principal and income of the trust to the trustee of the charitable remainder unitrust hereinafter established to be held, administered and distributed in the manner and according to the terms and conditions hereinafter provided.

The following comments pertain to the sample provision described above:

(1) Trust provisions during life. There are no restrictions on the dispositive provisions of the above trust during the period it is fully revocable.

(2) Provisions for both trusts in same instrument. The same governing instrument may provide for both the revocable inter vivos trust and the charitable remainder unitrust, and both trusts may have the same trustee.

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Unitrust
Sample Agreement

CHARITABLE REMAINDER UNITRUST AGREEMENT - TWO LIVES

SAMPLE FORM ONLY. COUNSEL SHOULD BE CONSULTED PRIOR TO DRAFTING ANY INSTRUMENT.

Comment: When the number of beneficiaries is one, or more than two, the language of this instrument should be modified where appropriate.

This CHARITABLE REMAINDER UNITRUST AGREEMENT is made and entered into this _____ day of _____, 19____, between _____ of _____, County of _____, State of _____ (hereinafter called the "Donor") and Excellence College, a corporation duly existing under the laws of the State of _____, and located in _____ in said State (hereinafter called the "College").

1. *Acknowledgment of Gift.* The College acknowledges receipt of the property listed on Exhibit A attached hereto as an irrevocable gift from the Donor, which property and all additions thereto shall be held and administered IN TRUST as follows.

2. *Name of Unitrust.* This Unitrust shall be designated on the books and records of the College as the _____ Fund.

Comment: Opinions vary as to whether or not funds subject to life income and held by the institution as trustee should be reflected on the books of the institution. If they are so shown, it should be clearly indicated in any published financial reports, by means of explanatory note or otherwise, that the assets of such funds are held in a fiduciary capacity.

3. *Additional Contributions.* The Donor or any other person may at any time make additional contributions to this Unitrust by gift or bequest with the consent of the College.

Comment: Regulation §1.664-3(b) also permits the prohibition of additions. However, in either case, a specific reference to additions must be made.

4. *Trust Investments.* The College is authorized to continue investment of the trust in the assets set forth in Exhibit A or may sell said assets and reinvest the trust assets in any manner consistent with Section 664 of the Internal Revenue Code and the Regulations thereunder, provided that the College shall not conduct any activity and shall neither receive nor invest in any property which shall cause the trust to have any unrelated business taxable income within the meaning of Section 512 of said Code. Nothing in this trust instrument shall be construed to restrict the College from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

5. *Payments to Beneficiaries.*

Alternative A. During the lifetime of the Donor, but not less often than annually in any event, the College shall pay the Donor out of the assets of the Trust an amount equal to ___ percent of the net fair market value of the assets of the trust determined annually. This amount shall be paid from income or, to the extent that income is insufficient, from principal. Any income of the trust for the taxable year in excess of the unitrust amount required to be paid under this paragraph shall be added to principal.

Comment: In some states payment of the Unitrust amount is restricted to income unless the trust instrument specifically provides that principal may also be used.

Alternative B. During the lifetime of the Donor, but not less often than annually in any event, the College shall pay the Donor out of the assets of

the trust the amount of the trust income to the extent that such amount does not exceed ____ percent of the net fair market value of the trust assets determined annually. Any income of the trust for the taxable year in excess of the amount required to be paid under this paragraph shall be added to principal.

Alternative C. During the lifetime of the Donor, but not less often than annually in any event, the College shall pay the Donor out of the assets of the trust the amount of the trust income to the extent that such amount does not exceed ____ percent of the net fair market value of the trust assets determined annually. If the trust income in any taxable year exceeds ____ percent of the net fair market value of the assets determined annually, such excess income shall be distributed to the Donor to the extent that the aggregate of the amount paid in prior years was less than the aggregate of the amounts required to be paid hereunder. Any income of the trust for the taxable year in excess of the amount required to be paid under this paragraph shall be added to principal.

Comment: Regulations §1.664-3(a)(1)(a) and §1.664-3(a)(1)(b). Although the size of the deduction will be determined on the basis of the percentage chosen (which, be it noted, must not be less than five percent), the Donor and College may agree that income only will be paid to extent that it does not exceed the state percentage. (Alternative B) Regulation §1.664-3(a)(1)(b)(1)

In such event the agreement may or may not provide that, where the income exceeds the stated percentage, it may be paid to make up deficiencies between the income and stated percentage incurred in prior years. (Alternative C) (Regulation §1.664-3(a)(1)(i)(b)(2))

Under Alternatives B and C specific provisions must be made for disposition of excess income. It must be added to principal as in the sample provisions, or it may be paid out to "an organization described in 170 (c)" (Regulation §1.664-3(a)(4))

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If the Donor's wife _____ (hereinafter referred to as "Donor's wife") survives the Donor, the College shall pay this amount to her during her lifetime. However, the Donor hereby reserves the right to appoint and direct by his Will, but only by express reference to this agreement, that all of the trust assets shall be irrevocably transferred to the College upon his death, subject to the provisions of Paragraph 13 hereafter, whether or not the Donor's wife survives the Donor.

Except in the case of a short taxable year, the amount required to be distributed above shall be paid to the Donor or the Donor's wife during every taxable year of the trust prior to the death of the survivor of the Donor and the Donor's wife.

This amount (hereinafter referred to as the "unitrust amount") shall be paid in four quarterly payments on or after March 31, June 30, September 30, and December 31. If necessary a fifth payment will be made on or before the date by which the College is required to file the Federal income tax return for the fund, to bring the total payment to the actual amount to which the beneficiary or beneficiaries were entitled for that year, pursuant to Paragraph 5 hereof. However, the obligation of the College to make payments to the Donor hereunder shall terminate with the regular quarterly payment next preceding the death of the Donor. If the Donor's wife survives the Donor and the Donor has failed to exercise the above-mentioned power of appointment, then the obligation of the College to make payments to the Donor's wife hereunder shall begin with the next quarterly payment after the Donor's death and shall terminate with the regular quarterly payment next preceding the Donor's wife's death.

Comment: As to the power of appointment provision, see Regulation 81.664-3(a)(4) and Comment on

Paragraph 5 of pooled fund instrument of transfer (p.69).

The payout must be made at least annually, but may be made semi-annually, quarterly (as in this sample instrument) or monthly.

For comments regarding the termination of payments, see Comment on Paragraph 10 (p. 78) of the pooled fund governing instrument and Paragraph 5 of the pooled fund instrument of transfer (p. 69).

References: Regulation 01.664-3(a)(1)(ii), 01.664-1(e), and 01.664-3(a)(2)(ii)(a).

6. *Proration for Short Taxable Year.* In determining the unitrust amount the College shall prorate the same on a daily basis for a short taxable year and the taxable year of the death of the last surviving income beneficiary hereunder.

Comment: Required by Regulation 01.664-1(f).

7. *Proration for Additional Contributions.* If any additional contributions are made to the trust after the initial contribution in trust, the unitrust amount for the taxable year in which the assets are added shall be _____ percent of the sum of (a) the net fair market value of trust assets excluding the added assets and any income from, or appreciation on, such assets, and (b) that proportion of the value of the added assets that was excluded under (a) which the number of days in the period beginning with the date of contribution and ending with the earlier of the last day of the taxable year or the date of the expiration of all non-charitable interests hereunder bears to the number of days in the period beginning with the first day of such taxable year and ending with the earlier of the last day in such taxable year or the date of the expiration of non-charitable interests. In the case where

there is no valuation date after the time of contribution, the assets so added shall be valued at the time of contribution.

Comment: If the Unitrust provides for additional contributions, this proration paragraph is required by Regulation §1.664-3(b)(2).

An additional contribution made by way of bequest, devise, or transfer from a trust by reason of death shall be deemed to have been made on the date of the decedent's death even though the distribution is not made until the end of a reasonable period for administration or settlement of the estate or trust. The College shall be required to pay the beneficiary or beneficiaries hereunder the amount provided in Paragraph 5 with respect to such additional contribution beginning as of the date of death of the decedent even though the requirement to pay such amount is deferred until the additional contribution is actually received. Within a reasonable period after the receipt in full of the additional contribution, the College shall pay (in the case of underpayment) or there shall be received from the recipient (in the case of overpayment) the difference between the total of any unitrust amounts actually paid and the total of such amounts payable plus interest at 5% compounded annually. The amount which is payable shall be retroactively determined by using the taxable year valuation method and dates which have been adopted by the trust and shall be computed in accordance with Regulation §1.664-1(a)(5)(ii).

Comment: Inclusion of this paragraph is recommended even if addition by bequest is not specifically contemplated.

8. *Taxable Year.* The taxable year of this trust shall be the year ending December 31.

Comment: The Unitrust may adopt any taxable year, but because the tax year of most beneficiaries will be the calendar year it is probably the most convenient one to use.

9. *Valuation Date.* The trust assets, including additional contributions, shall be valued on the last business day of the first month of the taxable year. Except for the valuation of added contributions as provided in 7 above, if no valuation date occurs before the end of any taxable year of the trust, the assets shall be valued on the earlier of the last day of the taxable year of the trust, or as of the date on which all non-charitable interests terminate.

Comment: Regulation §1.664-3(a)(1)(iv) requires that valuation be made either on one date or by taking an average of more than one date so long as the same method is used each year. As a practical matter, it will usually be to the institution's advantage to use a single valuation date, to have that date be early in the year (in the sample the last business day in January is used), and to have the date be one on which assets are normally valued for general institutional purposes.

The advantage of using a date early in the year is that the maximum payout (in the case of a "straight" unitrust, the exact payout) is fixed at that time and eliminates the need for estimated payments.

If no valuation date occurs before the end of the taxable year, the assets must be valued on the last day of the taxable year of the trust. (Required by Regulation §1.664-3(a)(1)(v)(a)(3).) Therefore, if a new unitrust is established after the normal valuation date, payments in the first year will have to be made on an estimated basis and care must be taken to avoid overpayment.

10. *Method of Valuation.* In computing the net fair market value of the assets, all accrued assets and accrued liabilities will be taken into

account.

Comment: This language should be used only if an institution wishes to administer its unitrusts on an accrual basis. However, draftsmen should be careful to conform to Regulation §1.664-3(a)(1)(iv) which states that in computing the net fair market value of the trust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the trust.

11. *Incorrect Valuation.* In the case where the net fair market value of the trust assets is incorrectly determined, the College shall pay to the income beneficiary in the case of an undervaluation, or the income beneficiary shall repay to the College in the case of an overvaluation, an amount equal to the difference between the amount which the trust should have paid if the correct value were used and the amount which the trust actually paid, within a reasonable period after the final determination of such value.

Comment: Required by Regulation §1.664-3(a)(1)(iii). To avoid overpayments on a net income unitrust, care must be taken before the final payment is made to be sure that it will not bring the total for the year above the maximum amount permitted.

11. *Definition of Income.* For the purposes of this trust, the term "Income" has the same meaning as it does under Section 643(b) of the Internal Revenue Code and Regulations thereunder. The term "income" shall mean net income after payment of any reasonable expenses of administering the trust. The following shall be treated as principal and not as "income".

- (a) Gains and losses from the sale, exchange, redemption, or other disposition of investments;

- (b) Stock dividends, stock splits, or similar distributions;
- (c) Capital gain dividends of regulated investment companies (mutual funds);
- (d) Liquidating distributions.

If interest-bearing securities are acquired at a premium over par or other stated value, the premium shall be amortized from income so as to restore the premium to principal.

Comment: A definition of income may not be required, and other definitions may be substituted provided they do not offend the provisions of IRC Section 664 and the regulations thereunder. Such a statement is essential, however, in the case of alternative (income only) unitrusts.

13. *Use After Death of Beneficiaries.* Upon the death of the survivor of the Donor and the Donor's wife (or upon the death of the Donor if the Donor exercises the power of appointment under Paragraph 5), the trust assets shall be irrevocably transferred to the College . . . (add (a), (b) or (c) as appropriate).

(a) (Unrestricted) to be used in such manner as the trustees thereof may direct.

(b) (Permanent Fund - Income Unrestricted) to constitute an endowment fund which shall be known as the _____ Fund, such fund to be kept invested by the College and the income thereof used to (state purpose - for example, faculty salaries, scholarships, etc.)

(c) (Permanent Fund - Income Restricted) to constitute an endowment fund which shall be known as the _____ Fund, such fund to be kept invested by the College and the income thereof used to (state purpose - for example, faculty salaries, scholarships, etc.)

Comment: See Comment on Paragraph 6 of the pooled fund instrument of transfer. (p. 70)

14. *Required Charitable Use.* In the event the College is not an organization described in Section 170(c) and 2055(a) and 2522(a) or (b) of the Internal Revenue Code at the time when any amount is to be irrevocably transferred to the College, such amount shall be transferred to or for the use of an organization or organizations selected by the College in its sole discretion which are described in the said Sections, or retained for such use.

Comment: Required by Regulation 81.664-3(a)(6).

15. *Governing Law.* It is the intention of the Donor and the College in executing this agreement to create a Charitable Remainder Unitrust within the meaning of Section 664 of the Internal Revenue Code and the Regulations thereunder. All the provisions hereof shall be interpreted in a manner consistent with the Regulations and Rulings promulgated by the Internal Revenue Service with respect thereto. Otherwise, this instrument shall be governed by the laws of the State of _____.

16. *Trust Not Liable for Estate or Inheritance Taxes.* Regardless of the laws of any state or jurisdiction and anything to the contrary notwithstanding, the assets of the trust estate shall not be subject to claim for any Federal, state or other estate, inheritance or succession taxes or duties which may be assessed against the estate of the Donor or against any beneficiary hereunder, and the Donor agrees that his Will will include a provision that any and all said taxes and duties shall be paid out of assets of the Donor's estate as are subject to administration and not out of the assets of the trust estate. Regardless of the laws of any state or jurisdiction and anything to the contrary

notwithstanding, the College shall not have the power to invade the trust for the benefit of the Donor or any beneficiary or any other party for any purpose whatsoever and the only payments made hereunder shall be the unitrust amounts payable to the Donor and/or other beneficiaries hereunder.

Comment: Suggested for inclusion where a donor retains an interest for his life and provides for a survivorship interest in his wife and/or others.

17. *Prohibited Activities.* Notwithstanding any other provision hereof, the unitrust amount for each taxable year shall be distributed at such time and in such manner as not to subject the trust to tax under IRC §4942 of the Internal Revenue Code of 1954, as amended. The College as trustee shall not engage in any act of self dealing (as defined in §4941(d) of the said Code) nor make any taxable expenditures (as defined in §4945(d) of the said Code). The College shall not make any investments which jeopardize the charitable purpose of the unitrust (as defined in §4944 of the said Code) nor retain any excess business holdings (within the meaning of §4943 of the said Code).

Comment: The Code sections referred to are private foundation provisions. Although not all of the prohibitions are required for charitable remainder trusts, it is recommended that all be included.

18. *Limited Power to Amend.*

- (a) Except as provided in this paragraph, this instrument may be amended, altered or modified at any time or from time to time, in writing, by the College.
- (b) In the event that an amendment affects the rights or obligations of any income beneficiary hereunder, such amendment shall not become effective until the first day of the calendar month

following sixty days after a copy of such amendment shall have been mailed to each such beneficiary. If such income beneficiary shall file with the College a notice in writing objecting to such amendment, and if such notice is received by the College at least five days prior to the effective date of the amendment, such amendment shall be void.

- (c) Notwithstanding any other provision of this paragraph, no amendment shall be made which affects the irrevocable remainder interest granted to the College in all property held in the trust, or which otherwise affects the qualification of the trust as a charitable remainder unitrust within the meaning of §664 of the Internal Revenue Code, as that term is defined from time to time in said Code, and the College shall have the power to amend this instrument for the purpose of preserving such qualification without reference to the limitations set forth in subparagraph (b) of this paragraph.

19. *Trustee's Powers.*

Comment: The Trustee's powers are a question of local law. The powers reproduced on page 82 may be considered, but in any event counsel should be consulted.

20. *Trustee Compensation and Bond.* The College shall not receive any compensation for services rendered under this agreement, excepting a reasonable investment management fee, which shall not be a charge against the unitrust amount. No bond shall be required of the College or any successor trustee.

21. *Effective Date.* This agreement shall be effective only upon

execution by the College at its offices at _____.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto
in duplicate the day, month and year hereinabove first written.

In the presence of

(SEAL

EXCELLENCE COLLEGE

By _____ (SEAL)

Name :

Title:

Comment: If a Donor retains an interest for life and provides for a survivorship interest in his wife or others, consideration should be given to execution of the document in the manner of a will with such additional witnesses as are required by the law of the jurisdiction. Further consideration should be given to having the signature of the Donor and the trustee acknowledged in the form meeting the requirements of the law of the jurisdiction.

CHARITABLE REMAINDER UNITRUST

ESTABLISHED BY BEQUEST

Comment: This form is offered for adaptation by a donor's attorney when it is desired to create a testamentary charitable remainder unitrust. It closely parallels the preceding Unitrust Agreement form and most of the same comments apply. Where the number of beneficiaries is more than one, this instrument should be modified as appropriate.

I give and bequeath, absolutely and in fee simple, the sum of _____ Dollars (\$) to Excellence College, a corporation duly existing under the laws of the State of _____, and located in _____ in said State (hereinafter called the "College"), as trustee, IN TRUST, HOWEVER, to hold for the following purposes and subject to the following conditions:

1. *Name of Unitrust.* This Unitrust shall be designated on the books and records of the College as the _____ Fund.
2. *Additional Contributions.* Additional contributions may be made to this Unitrust by gift or bequest or otherwise.
3. *Trust Investments.* The College is authorized to continue investment of the trust in the assets distributed by my estate which are the subject of this gift or may sell said assets and reinvest the trust assets in any manner consistent with Section 664 of the Internal Revenue Code and the Regulations thereunder, provided that the College shall not conduct any activity and shall neither receive nor invest in any property which shall cause the trust to have any unrelated business taxable income within the meaning of Section 512 of said Code. Nothing in this trust instrument shall be construed to restrict the College from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale

or disposition of trust assets.

4. *Payment to Beneficiary. (Alternative A)* During the lifetime of _____ (hereinafter called the "beneficiary") but not less often than annually in any event, the College shall pay the beneficiary out of the assets of the trust an amount equal to _____ percent of the net fair market value of the assets of the trust determined annually (hereinafter called the "unitrust amount"). The unitrust amount shall be paid from income and, to the extent that income is not sufficient, from principal. Any income of the trust for the taxable year in excess of the unitrust amount distributable hereunder shall be added to principal.

(Alternative B) During the lifetime of _____ (hereinafter called the "beneficiary") but not less often than annually in any event, the College shall pay the beneficiary out of the assets of the trust the amount of the trust income to the extent that such amount does not exceed _____ percent of the net fair market value of the trust assets determined annually (hereinafter called the "unitrust amount"). Any income of the trust for the taxable year in excess of the unitrust amount distributable hereunder shall be added to principal.

(Alternative C) During the lifetime of _____ (hereinafter called the "beneficiary") but not less often than annually in any event, the College shall pay the beneficiary out of the assets of the trust the amount of the trust income to the extent that such amount does not exceed _____ percent of the net fair market value of the trust assets determined annually. If the trust income in any taxable year exceeds _____ percent of the net fair market value of the assets determined annually, such excess income shall be distributed to the beneficiary to the extent that the aggregate of the amounts paid in prior years was less than the aggregate of the amounts

CHARITABLE REMAINDER UNITRUST

ESTABLISHED BY BEQUEST

Comment: This form is offered for adaptation by a donor's attorney when it is desired to create a testamentary charitable remainder unitrust. It closely parallels the preceding Unitrust Agreement form and most of the same comments apply. Where the number of beneficiaries is more than one, this instrument should be modified as appropriate.

I give and bequeath, absolutely and in fee simple, the sum of _____ Dollars (\$) to Excellence College, a corporation duly existing under the laws of the State of _____, and located in _____ in said State (hereinafter called the "College"), as trustee, IN TRUST, HOWEVER, to hold for the following purposes and subject to the following conditions:

1. *Name of Unitrust.* This Unitrust shall be designated on the books and records of the College as the _____ Fund.

2. *Additional Contributions.* Additional contributions may be made to this Unitrust by gift or bequest or otherwise.

3. *Trust Investments.* The College is authorized to continue investment of the trust in the assets distributed by my estate which are the subject of this gift or may sell said assets and reinvest the trust assets in any manner consistent with Section 664 of the Internal Revenue Code and the Regulations thereunder, provided that the College shall not conduct any activity and shall neither receive nor invest in any property which shall cause the trust to have any unrelated business taxable income within the meaning of Section 512 of said Code. Nothing in this trust instrument shall be construed to restrict the College from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale

or disposition of trust assets.

4. *Payment to Beneficiary. (Alternative A)* During the lifetime of _____ (hereinafter called the "beneficiary") but not less often than annually in any event, the College shall pay the beneficiary out of the assets of the trust an amount equal to _____ percent of the net fair market value of the assets of the trust determined annually (hereinafter called the "unitrust amount"). The unitrust amount shall be paid from income and, to the extent that income is not sufficient, from principal. Any income of the trust for the taxable year in excess of the unitrust amount distributable hereunder shall be added to principal.

(Alternative B) During the lifetime of _____ (hereinafter called the "beneficiary") but not less often than annually in any event, the College shall pay the beneficiary out of the assets of the trust the amount of the trust income to the extent that such amount does not exceed _____ percent of the net fair market value of the trust assets determined annually (hereinafter called the "unitrust amount"). Any income of the trust for the taxable year in excess of the unitrust amount distributable hereunder shall be added to principal.

(Alternative C) During the lifetime of _____ (hereinafter called the "beneficiary") but not less often than annually in any event, the College shall pay the beneficiary out of the assets of the trust the amount of the trust income to the extent that such amount does not exceed _____ percent of the net fair market value of the trust assets determined annually. If the trust income in any taxable year exceeds _____ percent of the net fair market value of the assets determined annually, such excess income shall be distributed to the beneficiary to the extent that the aggregate of the amounts paid in prior years was less than the aggregate of the amounts

that would have been paid as computed at _____ percent of the net fair market value of the trust assets in each of the respective prior years. (The amount required to be paid hereunder is hereinafter called the "unitrust amount.") Any income of the trust for the taxable year in excess of the unitrust amount distributable hereunder shall be added to principal.

Except in the case of a short taxable year, the unitrust amount shall be paid to the beneficiary during every taxable year of the trust prior to the death of the beneficiary. This amount shall be paid in four quarterly payments on or after March 31, June 30, September 30, and December 31 of each taxable year of the trust. If necessary, a fifth payment will be made on or before the date by which the College is required to file the Federal income tax return for the Unitrust to bring the total of the payments to the actual amount to which the beneficiary was entitled for that year. However, the obligation of the College to make payments to the beneficiary hereunder shall terminate with the regular quarterly payment next preceding the death of the beneficiary.

The obligation to pay the unitrust amount shall commence with the date of my death, but payment of that amount may be deferred from the date of my death to the end of the taxable year in which occurs the complete funding of the trust. Within a reasonable time after the occurrence of said event, the College shall distribute to the beneficiary the amount payable less the sum of any amounts previously distributed, plus interest thereon computed at 6% per year, compounded annually, from the date of distribution to the occurrence of said event. The amount payable shall be retroactively determined by using the taxable year and valuation dates designated herein and shall be computed in accordance with Section 1.664-1(a)(5)(ii) of the Federal Income Tax Regulations.

5. *Proration for Short Taxable Year.* In the case of a taxable year which is for a period of less than 12 months, and for the period during which the beneficiary hereunder is living in the taxable year of his death, the College shall pro rate the unitrust amount on a daily basis.

6. *Proration for Additional Contributions.* If any additional contributions are made to the trust after the initial contribution in trust, the unitrust amount for the taxable year in which the assets are added to the trust shall be _____ percent of the sum of (a) the net fair market value of trust assets (excluding the assets so added and any income from, or appreciation on, such assets) and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period beginning with the date of contribution and ending with the earlier of the last day of the taxable year or the date of death of the beneficiary hereunder bears to the number of days in the period beginning with the first day of such taxable year and ending with the earlier of the last day in such taxable year or the date of death of the beneficiary hereunder. In the case where there is no valuation date after the time of contribution, the assets so added shall be valued at the time of contribution.

An additional contribution made by way of bequest, devise or transfer from a trust by reason of death shall be deemed to have been made on the date of the decedent's death even though the distribution is not made until the end of a reasonable period for administration or settlement of the estate. The College shall be required to pay the beneficiary hereunder the unitrust amount with respect to said additional contribution beginning as of the date of death of the decedent even though the requirement to pay such amount is deferred until the end of the taxable year of the trust in which the additional contribution is received in full. Within a reasonable period after the occurrence of said

event the College must pay (in the case of under-payment) or there must be received from the recipient (in the case of over-payment) the difference between the total of any unitrust amounts actually paid and the total of such amounts payable (with interest computed at 6% a year, compounded annually, from the date of distribution to the occurrence of said event). The amount payable shall be retroactively determined by using the taxable year and valuation dates which have been adopted by the trust and shall be computed in accordance with Section 1.664-1(a)(5)(ii) of the Federal Income Tax Regulations.

7. *Taxable Year.* The taxable year of this trust shall be the year ending December 31.

8. *Valuation Date.* The trust assets, including additional contributions, shall be valued on the last business day of the first month of the taxable year. Except as provided in 6 above, applying to additional contributions, if no valuation date occurs before the end of any taxable year of the trust, the trust assets shall be valued on the earlier of the last day of the taxable year of the trust or on the date on which all non-charitable interests terminate.

9. *Method of Valuation.* In computing the net fair market value of the trust assets, all accrued assets and accrued liabilities shall be taken into account. (See Paragraph 10 and following comment on page 171.)

10. *Incorrent Valuation.* In the case where the net fair market value of the trust assets is incorrectly determined, the College shall pay to the beneficiary, in the case of an undervaluation, or the beneficiary shall repay to the College, in the case of an overvaluation, an amount equal to the difference between the amount which the trust should have paid if the correct value were used and the amount which the trust actually paid within a reasonable period after the final determination of such value.

11. *Definition of Income.* For the purposes of this trust, the term "income" has the same meaning as it does under Section 643(b) of the Internal Revenue Code and Regulations thereunder. The term "income" shall mean net income after payment of any expenses of administering the trust. Such expenses shall include a reasonable investment management fee which shall not be a charge against the unitrust amount. The following shall be treated as principal and not as "income:"

(a) Gains and losses from the sale, exchange, redemption, or other disposition of investments;

(b) Stock dividends, stock splits, or similar distributions;

(c) Capital gain dividends of regulated investment companies (mutual funds);

(d) Liquidating distributions.

If interest-bearing securities are acquired at a premium over par or other stated value, the premium shall be amortized from income so as to restore the premium to principal.

12. *Use After Death of Beneficiaries.* Upon the death of the beneficiary, the trust assets shall be irrevocably transferred to Excellence College(Add (a), (b) or (c) as appropriate.)

(a) (Principal Unrestricted) to be used in such manner as the trustees thereof may direct.

(b) (Permanent Fund - Revenue Unrestricted) to constitute an endowment fund which shall be known as the _____ Fund, such fund to be kept invested by the College and the revenue thereof used in such manner as the trustees thereof may direct.

(c) (Permanent Fund - Revenue Restricted) to constitute an endowment fund which shall be known as the _____ Fund, such fund to be kept

invested by the College and the revenue thereof used to (state purpose - for example, faculty salaries, scholarships, etc.)

13. *Required Charitable Use.* In the event that Excellence College is not an organization described in Sections 170(c) and 2055(a) of the Internal Revenue Code at the time when any principal or income of the trust is to be distributed to it, the College shall distribute such principal or income to or for the use of an organization or organizations, as selected by the College, which are described in the said Sections 170(c) and 2055(a), or retained for such use.

14. *Governing Law.* It is my intention to create a Charitable Remainder Unitrust within the meaning of Section 664 of the Internal Revenue Code and the Regulations thereunder. All the provisions hereof should be interpreted in a manner consistent with the regulations and rulings promulgated by the Internal Revenue Service with respect thereto. Otherwise, this trust shall be governed by the laws of the State of _____.

15. *Trust Not Liable for Estate or Inheritance Taxes.* Regardless of the laws of any state or jurisdiction or anything to the contrary notwithstanding, any Federal, state or other estate, inheritance or succession taxes or duties which may be assessed against my estate or against any beneficiary hereunder shall be paid out of other assets of my estate subject to administration and not out of the assets of the trust estate. Regardless of the laws of any state or jurisdiction and anything to the contrary notwithstanding, except for payment of the required unitrust amount hereunder, the College shall not have the power to invade this Unitrust for the beneficial use of the income beneficiary or any person other than an organization described in Section 170(c) of the Code.

16. *Prohibited Activities.* Notwithstanding any other provision

hereof, the College, as Trustee hereunder, shall make distributions for each taxable year at such time and in such manner as not to subject the trust to tax under Section 4942 of the Internal Revenue Code of 1954 as amended. The College shall not engage in any acts of self-dealing (as defined in Section 4941(d) of the Code); nor shall the College make any taxable expenditures (as defined in Section 4945(d) of the Code). The College shall not make any investments which jeopardize the charitable purpose of the unitrust (as defined in Section 4944 of the Code) nor retain any excess business holdings (within the meaning of Section 4943 of the Code).

17. *Limited Power to Amend.*

(a) Except as provided in this Paragraph, this instrument may be amended, altered or modified at any time or from time to time, in writing, by the College.

(b) In the event that an amendment affects the rights or obligations of any income beneficiary hereunder, such amendment shall not become effective until the first day of the calendar month following sixty days after a copy of such amendment shall have been mailed to each such beneficiary. If such income beneficiary shall file with the College a notice in writing objecting to such amendment, and if such notice is received by the College at least five days prior to the effective date of the amendment, such amendment shall be void.

(c) Notwithstanding any other provision of this Paragraph, no amendment shall be made which affects the irrevocable remainder interest granted to the College in all property held in the unitrust, or which otherwise affects the qualification of the Trust as a charitable remainder unitrust within the meaning of Section 664 of the Internal Revenue Code, as that term is defined from time to time in said Code, and the College shall have the power to amend this instrument for the purpose of preserving such qualification without reference to the limitations set forth in subparagraph (b) of this Paragraph.

18. *Trustee's Compensation and Bond.* The College shall not receive any compensation for services rendered under this agreement, excepting a reasonable investment management fee. No bond or other security shall be required of the College or any successor Trustee.

19. *Trustee's Powers.* (See Paragraph 15 on page 82 for a full recital of possible trustee powers.)

20. *Prohibition Against Alienation.* The interests of beneficiaries in principal or income of the unitrust shall not in any way be voluntarily or involuntarily alienated or encumbered.

21. *Successor Trustee.* The College may resign as Trustee and designate a new Trustee or Trustees so long as it retains the power to remove the Trustee or Trustees and to designate a new Trustee or Trustees. Any successor Trustee, whether appointed hereunder or appointed by a competent court, shall be vested with all the rights, powers, privileges, duties and obligations of the original Trustee hereunder.

Munitrust
Deduction Calculation

REMAINDER INTEREST COMPUTATION WORKSHEET FOR ONE-LIFE UNITRUST

Donor: PHIL N. THROPIST Gift Amount \$100,000 Gift Date 11/20/78
 Beneficiary: Name PHIL N. THROPIST Sex MALE Age 62
 Unitrust payout rate: 5 % Payment dates: QUARTERLY 3/31 6/30 9/30 12/31

1. ANNUAL VALUATION DATE OF TRUST	<u>JANUARY 31</u>
2. NUMBER OF MONTHS BY WHICH VALUATION DATE FOR FIRST FULL TAXABLE YEAR OF TRUST PRECEDES THE FIRST PAYOUT DATE FOR SUCH TAXABLE YEAR	<u>2</u>
3. ADJUSTMENT FACTOR (Table F)*	<u>.969059</u>
4. SPECIFIED PAYOUT RATE	<u>5</u> %
5. ADJUSTED PAYOUT RATE (Line 3 x Line 4)	<u>4.845295</u> %
6. NEAREST USABLE PERCENTAGE RATE LESS THAN LINE 5	<u>4.8</u> %
7. DIFFERENCE (Line 5 minus Line 6)	<u>.045295</u>
8. LINE 7 DIVIDED BY 0.2	<u>.226475</u>
9. FACTOR FOR <u>M</u> AGE <u>62</u> AT LINE 6 RATE (Table E)*	<u>.52748</u>
10. FACTOR FOR <u>M</u> AGE <u>62</u> AT NEXT HIGHER RATE	<u>.51505</u>
11. DIFFERENCE (Line 9 minus Line 10)	<u>.01243</u>
12. LINE 11 MULTIPLIED BY LINE 8	<u>.00281</u>
13. INTERPOLATED FACTOR (Line 9 minus Line 12)	<u>.52467</u>
14. VALUE TRANSFERRED TO TRUST	<u>\$ 100,000</u>
15. PRESENT VALUE OF REMAINDER INTEREST (Line 13 x Line 14)	<u>\$ 52,467</u>

*See single-life unitrust tables, page 147 ff.

REMAINDER INTEREST COMPUTATION WORKSHEET FOR ONE-LIFE UNITRUST

Donor: _____ Gift Amount \$ _____ Gift Date ____/____/____
 Beneficiary: Name _____ Sex _____ Age _____
 Unitrust payout rate: _____ % Payment dates: _____

1. ANNUAL VALUATION DATE OF TRUST _____
2. NUMBER OF MONTHS BY WHICH VALUATION DATE FOR
FIRST FULL TAXABLE YEAR OF TRUST PRECEDES THE
FIRST PAYOUT DATE FOR SUCH TAXABLE YEAR _____
3. ADJUSTMENT FACTOR (Table F)* _____
4. SPECIFIED PAYOUT RATE _____ %
5. ADJUSTED PAYOUT RATE (Line 3 x Line 4) _____ %
6. NEAREST USABLE PERCENTAGE RATE LESS THAN LINE 5 _____ %
7. DIFFERENCE (Line 5 minus Line 6) _____
8. LINE 7 DIVIDED BY 0.2 _____
9. FACTOR FOR _____ AGE _____ AT LINE 6 RATE (Table E)* _____
10. FACTOR FOR _____ AGE _____ AT NEXT HIGHER RATE _____
11. DIFFERENCE (Line 9 minus Line 10) _____
12. LINE 11 MULTIPLIED BY LINE 8 _____
13. INTERPOLATED FACTOR (Line 9 minus Line 12) _____
14. VALUE TRANSFERRED TO TRUST _____
15. PRESENT VALUE OF REMAINDER INTEREST
(Line 13 x Line 14) _____

*See single-life unitrust tables, page 147 ff.

REMAINDER INTEREST COMPUTATION WORKSHEET FOR TWO-LIFE UNITRUST

Donor: PHIL N. THROPIST Gift Amount \$ 100,000 Gift Date 11/20/73
 1st Beneficiary: Name PHIL N. THROPIST Sex MALE Age 72
 2nd Beneficiary: Name HELEN G. THROPIST Sex FEMALE Age 68
 Unitrust payout rate: 6 % Payment dates: QUARTERLY 3/31 6/30 9/30 12/31

1. ANNUAL VALUATION DATE OF TRUST	<u>JANUARY 31</u>
2. NUMBER OF MONTHS BY WHICH VALUATION DATE FOR FIRST FULL TAXABLE YEAR OF TRUST PRECEDES THE FIRST PAY-OUT DATE FOR SUCH TAXABLE YEAR.	<u>2</u>
3. ADJUSTMENT FACTOR (Table F)*	<u>.969059</u>
4. SPECIFIED PAYOUT RATE	<u>6</u> %
5. ADJUSTED PAYOUT RATE (Line 3 x 4)	<u>5.814354</u> %
6. NEAREST USABLE PERCENTAGE RATE LESS THAN LINE 5	<u>5.8</u>
7. DIFFERENCE (Line 5 minus Line 6)	<u>.014354</u>
8. LINE 7 DIVIDED BY 0.2	<u>.07177</u>
9. AGE AND SEX OF OLDER BENEFICIARY	<u>M / 72</u>
10. AGE AND SEX OF YOUNGER BENEFICIARY	<u>F / 68</u>
11. DIFFERENCE IN AGES (Line 9 minus Line 10)	<u>4</u>
12. FACTOR FOR LINE 6 RATE (Table E(3), Pub. 723 B)	<u>.41763</u>
13. FACTOR FOR NEXT HIGHER RATE (Table E(3), Pub. 723 B)	<u>.40585</u>
14. DIFFERENCE (Line 12 minus Line 13)	<u>.01178</u>
15. LINE 14 MULTIPLIED BY LINE 8	<u>.00085</u>
16. INTERPOLATED FACTOR (Line 12 minus Line 15)	<u>.41678</u>
17. VALUE TRANSFERRED TO TRUST	\$ <u>100,000</u>
18. PRESENT VALUE OF REMAINDER INTEREST (line 16 x Line 17)	\$ <u>41,678</u>

*See page 155

REMAINDER INTEREST COMPUTATION WORKSHEET FOR TWO-LIFE UNITRUST

Donor: _____ Gift Amount \$ _____ Gift Date _____

1st Beneficiary: Name _____ Sex _____ Age _____

2nd Beneficiary: Name _____ Sex _____ Age _____

Unitrust payout rate: _____ % Payment dates: _____

1. ANNUAL VALUATION DATE OF TRUST _____
2. NUMBER OF MONTHS BY WHICH VALUATION DATE FOR FIRST FULL TAXABLE YEAR OF TRUST PRECEDES THE FIRST PAYOUT DATE FOR SUCH TAXABLE YEAR. _____
3. ADJUSTMENT FACTOR (Table F)* _____
4. SPECIFIED PAYOUT RATE _____ %
5. ADJUSTED PAYOUT RATE (Line 3 x 4) _____ %
6. NEAREST USABLE PERCENTAGE RATE LESS THAN LINE 5 _____
7. DIFFERENCE (Line 5 minus Line 6) _____
8. LINE 7 DIVIDED BY 0.2 _____
9. AGE AND SEX OF OLDER BENEFICIARY _____
10. AGE AND SEX OF YOUNGER BENEFICIARY _____
11. DIFFERENCE IN AGES (Line 9 minus Line 10) _____
12. FACTOR FOR LINE 6 RATE (Table E(3), Pub. 723 B) _____
13. FACTOR FOR NEXT HIGHER RATE (Table E(3), Pub. 723 B) _____
14. DIFFERENCE (Line 12 minus Line 13) _____
15. LINE 14 MULTIPLIED BY LINE 8 _____
16. INTERPOLATED FACTOR (Line 12 minus Line 15) _____
17. VALUE TRANSFERRED TO TRUST \$ _____
18. PRESENT VALUE OF REMAINDER INTEREST (line 16 x Line 17) \$ _____

*See page 155

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Form **1041-B**Department of the Treasury
Internal Revenue Service**Charitable Remainder Trust**Under section 664 of the Internal Revenue Code
For the calendar year 1977 or fiscal year

beginning 1977, and ending 19.....

1977

Name of trust

TILLIE MOOSEWAT CHARITABLE REMAINDER UNITRUST

Name of fiduciary

EXCELLENCE COLLEGE

Address of fiduciary (Number and street)

City or town, State, and ZIP code

Employer identification number

12-3456789

Date trust created

12/1/74

Check whether:

☐ Testamentary☒ Inter vivos**Part I****Ordinary Income**

1	Dividends	2880.00
2	Interest	
3	Income from partnerships and other fiduciaries	
4	Gross rents and royalties	
5	Gross profit (loss) from trade or business	
6	Ordinary gains and (losses) (Attach Form 4797)	
7	Other income (State nature of income)	
8	Total ordinary income (lines 1 to 7 inclusive)	2880.00

Deductions Allocable to Ordinary Income

9	Interest	
10	Taxes	
11	Depreciation and depletion	
12	Other deductions (Itemize in attached statement)	
13	Total deductions (lines 9 to 12 inclusive)	
14	Ordinary income less deductions (line 8 less line 13). Enter here and on line 22, Part II	2880.00

Capital Gains (Losses) and Allocable Deductions

15	Total short term capital gain (loss) from Schedule D (Form 1041) line 3	
16	Deductions allocable to short-term capital gains	
17	Balance (line 15 less line 16). Enter here and on Part II, line 22	
18	Total long-term capital gain (loss) from Schedule D (Form 1041) line 11	333.53
19	Deductions allocable to long-term capital gains	
20	Balance (line 18 less line 19). Enter here and on Part II, line 22	333.53

Part II**Accumulation Schedule**

	Accumulations	Ordinary income	Capital gains and (losses)		Nontaxable income and corpus
			Net short term	Net long term	
21	Undistributed from prior years	230.61		78,293.38	
22	Current year (before distributions)	2880.00		333.53	
23	Total (lines 21 and 22)	3110.61		78,626.91	
24	Undistributed at end of year			77,867.64	

Part III**Current Distributions Schedule**

	Name of recipient	Social security number	Ordinary income	Capital gains		Nontaxable income and corpus
				Short-term	Long-term	
25	TILLIE MOOSEWAT	031-23-4567	3110.61		759.27	
26						
27						

Part IV

28 Did the trust have any unrelated business taxable income? ☐ Yes ☒ No
If "Yes," attach Form 1041 as a supplemental schedule and enter tax due or overpayment

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than fiduciary) is based on all information of which the preparer has any knowledge.

Adam Smith **DIRECTOR OF FINANCE**
Signature of fiduciary or officer representing fiduciary

4/10/78
Date

Signature of paid preparer (other than fiduciary) and identifying number (See Instruction 9)

Paid preparer's address (or employer's name, address, and identifying number)

Balance Sheet

	Annuity trust and unitrust End of the taxable year Book value	Unitrust only Fair market value Valuation date ▶▶
Assets		
1 Cash	(713.55)	420.96
2 Listed securities	87,284.50	76,916.87
3 Trade notes and accounts receivable		
(a) Less allowance for bad debts		
4 Inventories		
5 Government obligations:		
(a) U.S. and instrumentalities		
(b) State, subdivisions thereof, etc.		
6 Other current assets (Attach detailed schedule)		
7 Mortgage and real estate loans		
8 Other investments (Attach detailed schedule)		
9 Buildings and other fixed depreciable assets		
(a) Less accumulated depreciation		
10 Depletable assets		
(a) Less accumulated depletion		
11 Land (net of any amortization)		
12 Other assets (Attach detailed schedule)		
13 Total assets		
Liabilities		
14 Accounts payable	86,570.95	77,397.83
15 Mortgages and notes payable in less than 1 year		
16 Other current liabilities (Attach schedule)		
17 Mortgages and notes payable in 1 year or more		
18 Other liabilities (Attach schedule)		
19 Total liabilities		
Net Worth		
20 Trust principal or corpus	86,570.95	
21 Undistributed income and profits		
22 Total net worth	86,570.95	77,397.83
23 Total liabilities and net worth	86,570.95	

1 If annuity trust, state amount of annual annuity for each recipient, and initial net fair market value of property placed in trust.

2 If unitrust, state percentage of annual distribution(s) for each recipient.

57.

3 If unitrust, was there any change in the method of determining fair market value of the assets? ☐ Yes ☒ No
If "Yes," explain.

4 If unitrust, were additional contributions received during the taxable year? ☐ Yes ☒ No
If "Yes," list assets and date received.

5 If unitrust, was the amount required to be distributed to the recipient(s) during this taxable year more or less than the fixed percentage under the exception permitted by section 664(d)(3) of the Code? ☐ Yes ☒ No
If "Yes," enter the income for the year (as determined under section 643(b) and related regulations).

Also, if the unitrust is required to make up past deficiencies, enter the:

- (a) Prior years total income (as determined under section 643(b) and related regulations) \$; and,
(b) Prior years total distributions ▶

**Return of Nonexempt Charitable or Split-Interest
Trust Treated as a Private Foundation**
Under Section 4947(a) of the Internal Revenue Code

1977

For the calendar year 1977, or other taxable year beginning 1977, and ending 19.....

Name of trust in full TILLIE MOOSEMEAT CHARITABLE REMAINDER UNITRUST		Employer identification number of trust 12-3456789
Name of fiduciary EXCELLENCE COLLEGE		Fair market value of assets at end of year \$85,635.20
Address of fiduciary (Number and street)		Check type of organization: ☐ 4947(a)(1) ☒ 4947(a)(2)
City or town, State, and ZIP code		If the trust is in a 60-month termination under section 507(b)(1)(B) check here ☐
Note: Section 4947(a)(1) trusts must complete all Parts of the return. Section 4947(a)(2) trusts see instructions.		4947(a)(1) trusts filing this form in lieu of Form 1041 check here, see General Instruction A ☐
Date the trust was created 12/1/74		

Part I Analysis of Receipts and Expenditures
(See instructions for Part I)

	(A) Receipts and expenditures per books	(B) Computation of Net Investment Income	(C) Computation of Adjusted Net Income	(D) Disbursements for Charitable Purpose
Receipts	1 Gross contributions, gifts, grants, etc. (see instructions)			
	2 Contributions from split-interest trusts (see instructions)			
	3 Interest			
	4 Dividends	2880.00		
	5 Gross rents and royalties			
	6 Net gain or (loss) from sale of assets not in line 10	333.53		
	7 Capital gain net income (see instructions)			
	8 Net short-term capital gain (see instructions)			
	9 Income modifications (see instructions)			
	10 Gross profit from any business activities: (Gross receipts \$..... less cost of sales \$..... see instructions)			
	11 Other income (attach schedule)			
	12 Total—add lines 1 through 11	3213.53		
Expenditures	13 Compensation of officers, etc. (see instructions)			
	14 Other salaries and wages			
	15 Other employee benefits			
	16 Investment, legal and other professional services			
	17 Interest			
	18 Taxes (see instructions)			
	19 Depreciation, amortization, and depletion (see instructions)			
	20 Rent			
	21 Other expenses (attach schedule)			
	22 Contributions, gifts, grants (see instructions)			
	23 Total—add lines 13 through 22			
	24 Line 12 less line 23: (a) Excess of receipts over expenditures (b) Net investment income (if negative, enter 0) (c) Adjusted net income (if negative, enter 0)	3213.53		

Part II Excise Tax On Investment Income

1 Enter 4% of line 24(b) (see instructions)	
2 Computation under section 511 (see instructions)	
3 Add lines 1 and 2	
4 Tax under Subtitle A (see instructions)	
5 Excise tax under 4940(b)—line 3 minus line 4 (but not less than zero—see instructions)	
6 Tax paid with application for extension of time to file (Form 2758)	
7 Tax Due—line 5 less line 6 Pay in full with return. Make check or money order payable to Internal Revenue Service ► (Write Employer identification number on check or money order)	
8 Overpayment—line 6 less line 5	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Sign here Signature of officer or trustee <u>Adam Smith</u> Date <u>4/10/78</u> Title <u>DIRECTOR OF FINANCE</u>	Paid preparer's signature and identifying number (see instructions) Paid preparer's address (or employer's name, address and identifying number)
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Part III Questionnaire

- 1 (a) If a 4947(a)(1) trust with at least \$5,000 in assets at any time during the year, did you file Form 990-AR for the taxable year as required by Section 6056? (See General Instruction G) Yes No
- (b) If (a) is "Yes," have you furnished a copy of Form 990-AR (or equivalent report) to the Attorney General (or his/her designate) of each State as required by general instruction G? Yes No
- If "No," attach explanation. If "Yes," list here.
- 2 If the trust is the type described in section 4947(a)(2), do:
- (a) The provisions of section 4947(a)(2)(A), (B) or (C) apply? (See Special Rules for Split-interest Trusts on page 2 of Instructions) X
- If "Yes," do not apply the questions in Part V to any portion of the trust within the scope of such provisions.
- (b) (1) the provisions of section 4947(b)(3)(A) apply? (See Special Rules for Split-interest Trusts on page 2 of Instructions) K
- (2) the provisions of section 4947(b)(3)(B) apply? (See Special Rules for Split-interest Trusts on page 2 of Instructions) X
- If you answered "Yes" to question (b)(1) or (2), do not answer questions 3 and 4 of Part V.
- 3 At the time of filing this return for 1977 does the organization satisfy the requirements of section 508(e)? (See General Instruction I) by:
- (a) Language in the governing instrument (original or as amended)? X
- (b) State legislation that effectively amends the governing instrument and the governing instrument contains no mandatory directions which are in conflict with such State legislation?

Part IV Balance Sheets

	Beginning of Taxable Year		End of Taxable Year	
	(A) Amount	(B) Total	(C) Amount	(D) Total
Assets				
1 Cash:				
(a) Savings and interest-bearing accounts				
(b) Other	480.96	480.96	(713.55)	(713.55)
2 Accounts receivable net				
3 Notes receivable net (attach schedule)				
4 Inventories				
5 Gov't obligations:				
(a) U.S. and instrumentalities				
(b) State, subdivisions thereof, etc.				
6 Investments in nongovernment bonds, etc. (attach schedule)				
7 Investments in corporate stocks (attach schedule)		86,746.34		87,227.30
8 Mortgage loans (number of loans)				
9 Other investments (attach schedule)				
10 Depreciable (depletable) assets (attach schedule):				
(a) Held for investment purposes				
(b) Less accumulated depreciation				
(c) Held for charitable purposes				
(d) Less accumulated depreciation				
11 Land:				
(a) Held for investment purposes				
(b) Held for charitable purposes				
12 Other assets (attach schedule)				
13 Total assets		87,227.30		86,570.95
Liabilities				
14 Accounts payable				
15 Contributions, gifts, grants, etc., payable				
16 Mortgages and notes payable (attach schedule)				
17 Other liabilities (attach schedule)				
18 Total liabilities				
Net Worth (Fund Balances)				
19 Principal Fund		86,996.69		86,570.95
20 Income Fund		230.61		
21 Total Net Worth (Fund Balances)		87,227.30		86,570.95
22 Total liabilities and Net Worth (line 18 plus line 21)		87,227.30		86,570.95

Part V Statements with Respect to Certain Activities

File Form 4720 if question 1(b), 2(b), or 5(b) is answered "No" or question 1(c), 3(b), or 4(a) or (b) is answered "Yes."

1 Self-dealing (section 4941):

(a) Have you engaged in any of the following acts during the year either directly or indirectly, with one or more disqualified persons? (See instruction B, Part V "Definitions")—

- (1) Sale, exchange or leasing of property ☒ No
- (2) Borrowing or lending of money or other extension of credit ☒ No
- (3) Furnishing of goods, services, or facilities ☒ No
- (4) Payment of compensation (or payment or reimbursement of expenses) ☒ No
- (5) Transfer to, or use by or for the benefit of, a disqualified person of any part of your income or assets ☒ No
- (6) Agreement to make any payment of money, or other property, to a government official (as defined in section 4946(c)) other than an agreement to make a grant to or employ such individual for any period after the termination of his or her government service if such individual is terminating his or her government service within a 90-day period ☒ No

(b) If any of questions (a)(1) through (a)(6) is answered "Yes," were all of such acts in which you engaged excepted acts described in instruction C, Part V? ☐ Yes ☐ No(c) Have you, in a prior year, engaged in any of the acts described in (a) above that were acts that resulted in acts of self-dealing in years beginning after December 31, 1969, because they were not excepted acts described in instruction C, Part V of the instructions, and that were not corrected before the first day of your taxable year beginning in 1977? ☒ No**2 Taxes on failure to distribute income (section 4942) (not applicable to 4947(a)(2) trusts, and operating foundations as defined in 4942(j)(3)):**(a) Did you at the end of taxable year 1977 have any undistributed income for taxable year(s) beginning before 1977? ☐ Yes ☐ No
If "Yes," insert years(b) If "Yes," to (a) above, are you applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) with respect to the undistributed income for ALL such years? ☐ Yes ☐ No

(c) If the provisions of section 4942(a)(2) are being applied to ANY of the years listed in (a) above, list such years here and see General Instruction A for Part V

3 Taxes on excess business holdings (section 4943):(a) Did you hold more than a two percent direct or indirect interest in any business enterprise (see instruction B, Part V "Definitions") at any time during the year? ☐ Yes ☐ No(b) If "Yes," have you purchased or have disqualified persons purchased stock in a business enterprise since May 26, 1969, which resulted in excess business holdings (direct or indirect) which are subject to tax under section 4943? ☐ Yes ☐ No**4 Taxes on investments which jeopardize charitable purpose (section 4944):**(a) Did you invest during the year any amount in such manner as to jeopardize the carrying out of any of your charitable purposes? ☐ Yes ☐ No(b) Did you invest, in a prior year (but after December 31, 1969), any amount in such a manner as to jeopardize the carrying out of any of your charitable purposes and fail to remove such investment from jeopardy before the first day of your taxable year beginning in 1977? ☐ Yes ☐ No**5 Taxes on taxable expenditures (section 4945):**

(a) During the year did you pay, or incur a liability to pay, for any of the following?—

(1) To carry on propaganda, or otherwise attempt to influence legislation by attempting to affect the opinion of the general public or any segment thereof or by communicating with any member or employee of a legislative body, or by communicating with any other government official or employee who may participate in the formulation of legislation ☒ No(2) To influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive ☒ No(3) As a grant to an individual for travel, study, or other similar purposes by such individual ☒ No(4) As a grant to an organization other than a charitable, etc., organization described in paragraph (1), (2) or (3) of section 509(a) of the Code ☒ No(5) For any purpose other than religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals ☒ No(b) If any of questions (a)(1) through (a)(5) is answered "Yes," were all of such transactions excepted transactions described in instruction F, Part V? ☐ Yes ☐ No(c) Did you apply exception (13) of instruction F to question (a)(4) above? ☐ Yes ☐ No
If "Yes," attach the statement required for such exception as provided in the instructions under exception (13).

Part X Computation of Undistributed Income
(See instructions)

	(a) Corpus	(b) Years Prior to 1976	(c) 1976	(d) 1977
1 Distributable amount for 1977 from Part VIII				
2 Undistributed income, if any, as of the end of 1976:				
(a) Enter amount for 1976				
(b) Total for prior years;				
3 Excess distributions carryover, if any, to 1977:				
(a) From 1972				
(b) From 1973				
(c) From 1974				
(d) From 1975				
(e) From 1976				
(f) Total of 3(a) through (e)				
4 Qualifying distributions for 1977 ()				
(a) Applied to 1976 (but not in excess of 2(a))			()	
(b) Applied to undistributed income of prior years (Election required)		()		
(c) Treated as distributions out of corpus (Election required)				
(d) Applied to 1977 distributable amount				()
(e) Remaining amount distributed out of corpus				
5 Excess distributions carryover applied to 1977	()			()
(If an amount appears in the 1977 column the same amount must be shown in the corpus column of line 5)				
6 Enter the net total of each column as indicated below:				
(a) Corpus. Lines 3(f), 4(c) and 4(e) less line 5				
(b) Prior years undistributed income. Line 2(b) less line 4(b). This amount is taxable—File Form 4720				
(c) Undistributed income for 1976. Line 2(a) less line 4(a). This amount is taxable—File Form 4720				
(d) Undistributed income for 1977. Line 1 less lines 4(d) and 5. Amount must be distributed in 1978				
7 Amounts treated as distributions out of corpus to satisfy requirements imposed by Code Sections 170(b)(1)(D) or 4942(g)(3) (pass through distributions—see instructions)	()			
8 Excess distributions carryover from 1972 not applied on line 5 (see instructions)	()			
9 Excess distributions carried forward. (Line 6(a) less lines 7 and 8)				
10 Analysis of line 9:				
(a) Excess from 1973				
(b) Excess from 1974				
(c) Excess from 1975				
(d) Excess from 1976				
(e) Excess from 1977				

**SCHEDULE K-1
(Form 1041)**Department of the Treasury
Internal Revenue Service**Beneficiary's Share of Income, Deductions, Credits, etc.—1977**

for the calendar year 1977, or fiscal year

beginning 1977, ending 19

(Complete for each beneficiary—see instructions on back of Copy C and the instructions for Form 1041)

Copy AFile with
Form 1041

(a) Allocable share item	(b) Amount	(c) Form 1040 filers enter column (b) amount as indicated below
1 Dividends (amount before exclusion)	3110.41	Schedule B, Part II, line 3
2 Short-term capital gain		Schedule D, line 2
3 Long-term capital gain	759.27	Schedule D, line 9
4 a Other taxable income (Itemize)		
b		
c Total of lines 4a and 4b		
d Depreciation and depletion (See Sch. A (1041) instrs.)		
e Amortization deductions (Itemize) (See 1041 instr. 16.)		
f		
g Total of lines 4d, 4e and 4f		
h Line 4c minus line 4g		Schedule E, Part III
5 Foreign taxes		Form 1116 or Schedule A (Form 1040), line 16
6 a Other (Itemize)		Enter on applicable line of appropriate tax form
b		Enter on applicable line of appropriate tax form
7 Long-term capital gain		See Form 4625 instructions
8 Depreciation (real property)		Form 4625, line 1(b) (2)
9 Depletion		Form 4625, line 1(j)
10 a Other (Itemize)		Enter on applicable line of Form 4625
b		Enter on applicable line of Form 4625

Name, identifying number, and address (including ZIP code) of beneficiary

TILLIE MOOSEMEAT 031-23-4567

Name and employer identification number of estate or trust and name and address (including ZIP code) of fiduciary

TILLIE MOOSEMEAT CHARITABLE REMAINDER TRUST
12-3456789

EXCELLENCE COLLEGE

Instructions for Fiduciary

Complete Schedule K-1 (Form 1041) for each beneficiary and file Copy A with Form 1041. You may substitute your own form, or the information notice sent to the beneficiary, if it contains the information required by this form. You may (but are not required to) give Copy B to the beneficiary. You may keep Copy C for your records. If you need more space, attach additional sheets of the same size. For "Privacy Act" notice, see the Instructions for Form 1040.

If no special computations are required, use the following instructions to compute the beneficiary's income from the estate or trust. In other cases, see sections 652, 662, and 663 of the Internal Revenue Code and related regulations. For example, different computations are required if capital gains and losses or a charitable deduction are involved. In addition, the terms of the governing instrument or local law may require different computations. The instructions for Form 1041 contain numerous references to amounts to be entered on the various lines of Schedule K-1 (Form 1041). For example, the instructions for Form 1041, Schedule A, Depreciation, includes the apportionment rule for depreciation and a reference to Schedule K-1 (Form 1041) line 4d for the depreciation which is deductible by the beneficiary rather than the fiduciary.

Income.—The beneficiary must include in gross income the smaller of (1) the amounts paid, credited or required to be distributed, or (2) the proportionate share of distributable net income, reduced in either case by the share of distributable tax-exempt income less the allocable expense not allowable as a deduction on page 1 of Form 1041.

Character of Income.—The beneficiary's income shall be deemed to consist of the same proportion of each class of items entering into the computation of distributable net income as the total of each class bears to the distributable net income.

Allocation of Deductions.—Allocate the items of deduction which enter into the computation of distributable net income among the items of distributable net income as follows. Deductions attributable to one class of income are to be deducted from that income. Deductions not attributable to one class of income may be deducted from any class, except that a reasonable proportion must be deducted from tax-exempt income. Except for deductions allocable to tax-exempt income, excess deductions allocable to one class of income may be allocated to other classes. None of the deductions in the computa-

tion of distributable net income may be allocated to items attributable to corpus or to income not included in distributable net income. Except for the final year (see General Instruction N) and for depreciation or depletion allocations in excess of income (see Rev. Rul. 74-530), no negative amounts may be shown for any class of income since as a general rule the beneficiary may not claim losses or deductions of the estate or trust.

Gifts and Bequests.—Do not include in the beneficiary's income gifts or bequests of a specific sum of money or of specific property under the terms of the governing instrument which are paid or credited in three installments or less. Amounts which can be paid or credited only from income of the estate or trust do not qualify as a gift or bequest of a specific sum of money.

Past Years.—Do not include in the beneficiary's income amounts deducted in Form 1041 for an earlier year which were credited or required to be distributed in that earlier year.

Identifying Number.—The fiduciary may be subject to a penalty for each omission of a beneficiary's identifying number unless the fiduciary establishes a reasonable cause for not providing it.

ANNUITY TRUST
DEFINITION AND INVESTMENT

DEFINITION OF CHARITABLE REMAINDER ANNUITY TRUST

A separately invested trust created by a gift of cash and/or securities requiring the payment of a fixed dollar amount (which must be at least 5% of the initial fair market value of the gift establishing the trust, and can be higher if so stated in the trust agreement) at least annually to the Donor and/or other named beneficiaries (who must be living at the time the trust is created) for the life or lives of the beneficiary(ies) or for a term of years (not to exceed twenty years). Upon the death of the last surviving beneficiary, or at the end of the term of years, the trust terminates and the trust assets are transferred to the charitable organization for which it was created. See Section 664(d)(1) of the Internal Revenue Code and Sections 1.664-1, 1.664-2 of the Internal Revenue Regulations.

To the extent that the investment income of the trust assets is insufficient to make the required annual payout, the balance must be paid from principal. The trustee can be the charitable organization for whom the remainder interest is designated, or may be an individual (other than the Donor himself or a non-charitable beneficiary of the trust) or a corporate trustee such as a bank or trust company. A charitable organization can be an income beneficiary so long as there is at least one non-charitable beneficiary. Except for the required payout from the trust to the income beneficiaries, the trust may not be invaded, altered, amended or revoked for the beneficial use of a person other than an organization described in Code Section 170(c).

Under Code Section 664(d) payments to the beneficiary from a charitable remainder annuity trust retain the same character in the hands of the

beneficiary as they had in the trust. The total of the payments for each year is taxable under, and must be reported in the order of, the following tier structure:

(A) First, as ordinary income to the extent of such income earned by the trust assets for the year and any undistributed ordinary income of the trust for prior years.

(B) Second, as long-term capital gain to the extent that the trust has realized long-term capital gains for the year and any undistributed realized long-term capital gains for prior years.

(C) Third, as non-taxable income to the extent that the trust has non-taxable income for the year and any undistributed non-taxable income for prior years.

(D) Fourth, as tax-free distribution of trust corpus.

ANNUITY TRUST INVESTMENT CONSIDERATIONS

The investment strategy for an annuity trust will normally be the same as for the straight unitrust (see page 127) - namely, investment of the trust assets for maximum total return over the long term. In this case, however, the trustee's success in realizing a total return in excess of the payout requirement will benefit the charitable remainderman rather than the income beneficiary. Because the payout of an annuity trust is a fixed dollar amount, any total return in excess of that amount will directly increase the principal of the trust.

Accordingly, in establishing policy with regard to the maximum percentage of payout for annuity trust gifts, the institution should consider the potential for realizing a total return in excess of the required payout. As in the case of the straight unitrust, because the annuity trust must be separately invested, an institution would be wise to establish a relatively high gift amount as the minimum for such a trust in order to provide for sufficient investment flexibility and diversification. Again, \$50,000 is a commonly used minimum gift amount for an annuity trust.

Although investment performance will not affect the amount of the fixed payments made to the income beneficiary, investment policy will have an effect on the nature of those payments and their tax consequences. As in the case of a straight unitrust, the four-tier payout requirement (described on page 208) likewise applies to annuity trust distributions. Thus, it is appropriate for the trustee during favorable market periods to invest the assets of an annuity trust for capital appreciation and minimum ordinary income (dividends) in order to provide the beneficiary with some measure of favorably taxed capital gain distribution.

ANNUITY TRUST
REGULATIONS AND TABLES

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CHARITABLE REMAINDER ANNUITY TRUSTS

**Section 664.—Charitable
Remainder Trusts**

*26 CFR 1.664: Statutory provisions; charitable remainder trusts.
(Also Section 6012; 1.6012-3.)*

T.D. 7202

TITLE 26.—INTERNAL REVENUE.—CHAPTER I SUBCHAPTER A. PART 1.—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Charitable remainder trusts

DEPARTMENT OF THE TREASURY,
OFFICE OF COMMISSIONER
OF INTERNAL REVENUE,
Washington, D.C. 20224.

*To Officers and Employees of the
Internal Revenue Service and
Others Concerned:*

On August 5, 1970, notice of proposed rule making was published in the Federal Register (35 F.R. 12467) with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to provide regulations under section 664 of the Internal Revenue Code of 1954, relating to charitable remainder trusts, as added by section 201(e) of the Tax Reform Act of 1969 (83 Stat. 562, P.L. 91-172) [C.B. 1969-3, 10 at 52]. On September 18, 1971, notice was published in the Federal Register (36 F.R. 18667) that portions of the proposed rules in the prior notice of proposed rule making were withdrawn and that new rules were proposed to be prescribed in lieu of the rules withdrawn. After con-

sideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following amendment of the regulations is adopted:

PARAGRAPH 1. The following new sections are added immediately after § 1.663-4:

§ 1.664 Statutory provisions; charitable remainder trusts.

Sec. 664. *Charitable remainder trusts*—(a) *General rule.* Notwithstanding any other provision of this subchapter, the provisions of this section shall, in accordance with regulations prescribed by the Secretary or his delegate, apply in the case of a charitable remainder annuity trust and a charitable remainder unitrust.

(b) *Character of distributions.* Amounts distributed by a charitable remainder annuity trust or by a charitable remainder unitrust shall be considered as having the following characteristics in the hands of a beneficiary to whom is paid the annuity described in subsection (d)(1)(A) or the payment described in subsection (d)(2)(A):

(1) First, as amounts of income (other than gains, and amounts treated as gains, from the sale or other disposition of capital assets) includible in gross income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years;

(2) Second, as a capital gain to the extent of the capital gain of the trust for the year and the undistributed capital gain of the trust for prior years;

(3) Third, as other income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years; and

(4) Fourth, as a distribution of trust corpus.

For purposes of this section, the trust shall determine the amount of its undistributed capital gain on a cumulative net basis.

(c) *Exemption from income taxes.* A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this sub-

title, unless such trust, for such year, has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust).

(d) *Definitions*—(1) *Charitable remainder annuity trust.* For purposes of this section, a charitable remainder annuity trust is a trust—

(A) From which a sum certain (which is not less than 5 percent of the initial net fair market value of all property placed in trust) is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals.

(B) From which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

(C) Following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

(2) *Charitable remainder unitrust.* For purposes of this section, a charitable remainder unitrust is a trust—

(A) From which a fixed percentage (which is not less than 5 percent) of the net fair market value of its assets, valued annually, is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals.

(B) From which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

(C) Following the termination of the payments described in subpara-

graph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

(3) *Exception.* Notwithstanding the provisions of paragraphs (2)(A) and (B), the trust instrument may provide that the trustee shall pay the income beneficiary for any year—

(A) The amount of the trust income, if such amount is less than the amount required to be distributed under paragraph (2)(A), and

(B) Any amount of the trust income which is in excess of the amount required to be distributed under paragraph (2)(A), to the extent that (by reason of subparagraph (A)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

(e) *Valuation for purposes of charitable contribution.* For purposes of determining the amount of any charitable contribution, the remainder interest of a charitable remainder annuity trust or charitable remainder unitrust shall be computed on the basis that an amount equal to 5 percent of the net fair market value of its assets (or a greater amount, if required under the terms of the trust instrument) is to be distributed each year.

[Sec. 664 as added by sec. 201(c) of the Tax Reform Act of 1969 (Pub. Law 91-172, 83 Stat. 562) (C.B. 1969-3, 10 at 52)]

§ 1.664-1 Charitable remainder trusts.

(a) *In general*—(1) *Introduction*

—(i) *General description of a charitable remainder trust.* Generally, a charitable remainder trust is a trust which provides for a specified distribution, at least annually, to one or more beneficiaries, at least one of which is not a charity, for life or for a term of years, with an irrevocable remainder interest to be held for the benefit of, or paid over to, charity. The specified distribution to be paid at least annually must be a sum certain which is not less than 5 percent of the initial net fair market value of all property placed in trust (in the case of a charitable remainder annuity trust) or a fixed percentage which is not less than 5 percent of the net fair market value

of the trust assets, valued annually (in the case of a charitable remainder unitrust). A trust created after July 31, 1969, which is a charitable remainder trust is exempt from all of the taxes imposed by subtitle A of the Code for any taxable year of the trust except a taxable year in which it has unrelated business taxable income.

(ii) *Scope.* This section provides definitions, general rules governing the creation and administration of a charitable remainder trust, and rules governing the taxation of the trust and its beneficiaries. For the application of certain foundation rules to charitable remainder trusts, see paragraph (b) of this section. If the trust has unrelated business taxable income, see paragraph (c) of this section. For the treatment of distributions to recipients, see paragraph (d) of this section. For the treatment of distributions to charity, see paragraph (e) of this section. For the time limitations for amendment of governing instruments, see paragraph (f) of this section. For transitional rules under which particular requirements are inapplicable to certain trusts, see paragraph (g) of this section. Section 1.664-2 provides rules relating solely to a charitable remainder annuity trust. Section 1.664-3 provides rules relating solely to a charitable remainder unitrust. Section 1.664-4 provides rules governing the calculation of the fair market value of the remainder interest in a charitable remainder unitrust. For rules relating to the filing of returns for a charitable remainder trust, see paragraph (a) (6) of § 1.6012-3 and section 6034 and the regulations thereunder.

(iii) *Definitions.* As used in this section and §§ 1.664-2, 1.664-3, and 1.664-4:

(a) *Charitable remainder trust.* The term "charitable remainder trust" means a trust with respect to which a deduction is allowable under section 170, 2055, 2106, or 2522 and which meets the description of a charitable remainder annuity trust (as described in § 1.664-2) or a charitable remainder unitrust (as described in § 1.664-3).

(b) *Annuity amount.* The term "annuity amount" means the amount

described in paragraph (a)(1) of § 1.664-2 which is payable, at least annually, to the beneficiary of a charitable remainder annuity trust.

(c) *Unitrust amount.* The term "unitrust amount" means the amount described in paragraph (a)(1) of § 1.664-3 which is payable, at least annually, to the beneficiary of a charitable remainder unitrust.

(d) *Recipient.* The term "recipient" means the beneficiary who receives the possession or beneficial enjoyment of the annuity amount or unitrust amount.

(e) *Governing instrument.* The term "governing instrument" has the same meaning as in section 508(e) and the regulations thereunder.

(2) *Requirement that the trust must be either a charitable remainder annuity trust or a charitable remainder unitrust.* A trust is a charitable remainder trust only if it is either a charitable remainder annuity trust in every respect or a charitable remainder unitrust in every respect. For example, a trust which provides for the payment each year to a noncharitable beneficiary of the greater of a sum certain or a fixed percentage of the annual value of the trust assets is not a charitable remainder trust inasmuch as the trust is neither a charitable remainder annuity trust (for the reason that the payment for the year may be a fixed percentage of the annual value of the trust assets which is not a "sum certain") nor a charitable remainder unitrust (for the reason that the payment for the year may be a sum certain which is not a "fixed percentage" of the annual value of the trust assets).

(3) *Restrictions on investments.* A trust is not a charitable remainder trust if the provisions of the trust include a provision which restricts the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets. In the case of transactions with, or for the benefit of, a disqualified person, see section 4941(d) and the regulations thereunder for rules relating to the definition of self-dealing.

(4) *Requirement that trust must meet definition of and function exclu-*

sively as a charitable remainder trust from its creation. In order for a trust to be a charitable remainder trust, it must meet the definition of and function exclusively as a charitable remainder trust from the creation of the trust. Solely for the purposes of section 664 and the regulations thereunder, the trust will be deemed to be created at the earliest time that neither the grantor nor any other person is treated as the owner of the entire trust under subpart E, part 1, subchapter J, chapter 1, subtitle A of the Code (relating to grantors and others treated as substantial owners), but in no event prior to the time property is first transferred to the trust. For purposes of the preceding sentence, neither the grantor nor his spouse shall be treated as the owner of the trust under such subpart E merely because the grantor or his spouse is named as a recipient. See examples 1 through 3 of subparagraph (6) of this paragraph for illustrations of the foregoing rule.

(5) *Rules applicable to testamentary transfers—*(i) *Deferral of annuity or unitrust amount.* Notwithstanding subparagraph (4) of this paragraph and §§ 1.664-2 and 1.664-3, for purposes of sections 2055 and 2106 a charitable remainder trust shall be deemed created at the date of death of the decedent (even though the trust is not funded until the end of a reasonable period of administration or settlement) if the obligation to pay the annuity or unitrust amount with respect to the property passing in trust at the death of the decedent begins as of the date of death of the decedent, even though the requirement to pay such amount is deferred in accordance with the rules provided in this subparagraph. If permitted by applicable local law or authorized by the provisions of the governing instrument, the requirement to pay such amount may be deferred until the end of the taxable year of the trust in which occurs the complete funding of the trust. Within a reasonable period after such time, the trust must pay (in the case of an underpayment) or must receive from the recipient (in the case of an overpayment) the difference between—

(a) Any annuity or unitrust amounts

actually paid, plus interest on such amounts computed at 6 percent a year, compounded annually, and

(b) The annuity or unitrust amounts payable, plus interest on such amounts computed at 6 percent a year, compounded annually.

The amounts payable shall be retroactively determined by using the taxable year, valuation method, and valuation dates which are ultimately adopted by the charitable remainder trust. See subdivision (ii) of this subparagraph for rules relating to retroactive determination of the amount payable under a charitable remainder unitrust. See paragraph (d)(4) of this section for rules relating to the year of inclusion in the case of an underpayment to a recipient and the allowance of a deduction in the case of an overpayment to a recipient.

(ii) For purposes of retroactively determining the amount under subdivision (i)(b) of this subparagraph, the governing instrument of a charitable remainder unitrust may provide that the amount described in subdivision (i)(b) of this subparagraph with respect to property passing in trust at the death of the decedent for the period which begins on the date of death of the decedent and ends on the earlier of the date of death of the last recipient or the end of the taxable year of the trust in which occurs the complete funding of the trust shall be computed by multiplying—

(a) The sum of (1) the value, on the earlier of the date of death of the last recipient or the last day in such taxable year, of the property held in trust which is attributable to property passing to the trust at the death of the decedent, (2) any distributions in respect of unitrust amounts made by the trust or estate before such date, and (3) interest on such distributions computed at 6 percent a year, compounded annually, from the date of distribution to such date by—

(b) A factor equal to 1.0 less the factor under the appropriate payout rate in column 2 of Table D in § 1.664-4(b)(5) opposite the number of years in column 1 between the date of death of the decedent and the date of the earlier of the death of the last

recipient or the last day in such taxable year.

If the number of years between the date of death and the date of the earlier of the death of the last recipient or end of such taxable year is between periods for which factors are provided in Table D, a linear interpolation must be made.

(iii) *Treatment of distributions.* The treatment of a distribution to a charitable remainder trust, or to a recipient in respect of an annuity or unitrust amount, paid, credited, or required to be distributed by an estate, or by a trust which is not a charitable remainder trust, shall be governed by the rules of subchapter J, chapter 1, subtitle A of the Code other than section 664. In the case of a charitable remainder trust which is partially or fully funded during the period of administration of an estate or settlement of a trust (which is not a charitable remainder trust), the treatment of any amount paid, credited, or required to be distributed by the charitable remainder trust shall be governed by the rules of section 664.

(6) *Examples.* The application of the rules in subparagraphs (4) and (5) of this paragraph may be illustrated by the following examples:

Example (1). On September 19, 1971, H transfers property to a trust over which he retains an inter vivos power of revocation. The trust is to pay W 5 percent of the value of the trust assets, valued annually, for her life, the remainder to charity. The trust would satisfy all of the requirements of section 664 if it were irrevocable. For purposes of section 664, the trust is not deemed created in 1971 because H is treated as the owner of the entire trust under subpart E. On May 26, 1975, H predeceases W at which time the trust becomes irrevocable. For purposes of section 664, the trust is deemed created on May 26, 1975, because that is the earliest date on which H is not treated as the owner of the entire trust under subpart E. The trust becomes a charitable remainder trust on May 26, 1975, because it meets the definition of a charitable remainder trust from its creation.

Example (2). The facts are the

same as in example (1), except that H retains the inter vivos power to revoke only one-half of the trust. For purposes of section 664, the trust is deemed created on September 19, 1971, because on that date the grantor is not treated as the owner of the entire trust under subpart E. Consequently, a charitable deduction is not allowable either at the creation of the trust or at H's death because the trust does not meet the definition of a charitable remainder trust from the date of its creation. The trust does not meet the definition of a charitable remainder trust from the date of its creation because the trust is subject to a partial power to revoke on such date.

Example (3). The facts are the same as in example (1), except that the residue of H's estate is to be paid to the trust and the trust is required to pay H's debts. The trust is not a charitable remainder trust at H's death because it does not function exclusively as a charitable remainder trust from the date of its creation which, in this case, is the date it becomes irrevocable.

Example (4). (i) In 1971, H transfers property to Trust A over which he retains an inter vivos power of revocation. Trust A, which is not a charitable remainder trust, is to provide income or corpus to W until the death of H. Upon H's death the trust is required by its governing instrument to pay the debts and administration expenses of H's estate, and then to terminate and distribute all of the remaining assets to a separate Trust B which meets the definition of a charitable remainder annuity trust.

(ii) Trust B will be a charitable remainder trust from the date of its funding because it will function exclusively as a charitable remainder trust from its creation. For purposes of section 2055, Trust B will be deemed created at H's death if the obligation to pay the annuity amount begins on the date of H's death. For purposes of section 664, Trust B becomes a charitable remainder trust as soon as it is partially or completely funded. Consequently, unless Trust B has unrelated business taxable income, the income of the trust is exempt from

all taxes imposed by subtitle A of the Code, and any distributions by the trust, even before it is completely funded, are governed by the rules of section 664. Any distributions made by Trust A, including distributions to a recipient in respect of annuity amounts, are governed by the rules of subchapter J, chapter 1, subtitle A of the Code other than section 664.

Example (5). In 1973, H dies testate leaving the net residue of his estate (after payment by the estate of all debts and administration expenses) to a trust which meets the definition of a charitable remainder unitrust. For purposes of section 2055, the trust is deemed created at H's death if the requirement to pay the unitrust amount begins on H's death and is a charitable remainder trust even though the estate is obligated to pay debts and administration expenses. For purposes of section 664, the trust becomes a charitable remainder trust as soon as it is partially or completely funded. Consequently, unless the trust has unrelated business taxable income, the income of the trust is exempt from all taxes imposed by subtitle A of the Code, and any distributions by the trust, even before it is completely funded, are governed by the rules of section 664. Any distributions made by H's estate, including distributions to a recipient in respect of unitrust amounts, are governed by the rules of subchapter J, chapter 1, subtitle A of the Code other than section 664.

Example (6). (i) On January 1, 1974, H dies testate leaving the residue of his estate to a charitable remainder unitrust. The governing instrument provides that, beginning at H's death, the trustee is to make annual payments to W, on December 31 of each year, of 5 percent of the net fair market value of the trust assets, valued as of December 31 of each year, for W's life and to pay the remainder to charity at the death of W. The governing instrument also provides that the actual payment of the unitrust amount need not be made until the end of the taxable year of the trust in which occurs the complete funding of the trust. The governing instrument also provides that the amount payable with respect to the period between the

date of death and the end of such taxable year shall be computed under the special method provided in subparagraph (5)(ii) of this paragraph. The governing instrument provides that, within a reasonable period after the end of the taxable year of the trust in which occurs the complete funding of the trust, the trustee shall pay (in the case of an underpayment) or shall receive from the recipient (in the case of an overpayment) the difference between the unitrust amounts paid (plus interest at 6 percent compounded annually) and the amount computed under the special method. The trust is completely funded on September 20, 1976. No amounts were paid before June 30, 1977. The trust adopts a fiscal year of July 1 to June 30. The net fair market value of the trust assets on June 30, 1977, is \$100,000.

(ii) Because no amounts were paid prior to the end of the taxable year in which the trust was completely funded, the amount payable at the end of such taxable year is equal to the net fair market value of the trust assets on the last day of such taxable year (June 30, 1977) multiplied by a factor equal to 1.0 minus the factor in Table D corresponding to the number of years in the period between the date of death and the end of such taxable year. The adjusted payout rate (determined under § 1.664-4(b)(2)) is 5 percent. Because the last day of the taxable year in which the trust is completely funded is June 30, 1977, there are 3-181/365 years in such period. Because there is no factor given in Table D for such a period, a linear interpolation must be made:

1.0 minus .814506 (factor at	
5 percent for 4 years) ---	.185494
1.0 minus .857375 (factor at	
5 percent for 3 years) ---	.142625
Difference -----	.042869
181 = X	
365	.042869
X =	.021258
1.0 minus .857375 (factor at	
5 percent for 3 years) ---	.142625
Plus: X -----	.021258
Interpolated factor ----	.163883

Thus, the amount payable for the period from January 1, 1974, to June

30, 1977, is \$16,388.30 (\$100,000 × .163883). Thereafter, the trust assets must be valued on December 31 of each year and 5 percent of such value paid annually to W for her life.

(b) *Application of certain foundation rules to charitable remainder trusts.* See section 4947(a)(2) and section 4947(b)(3)(B) and the regulations thereunder for the application to charitable remainder trusts of certain provisions relating to private foundations. See section 508(e) for rules relating to required provisions in governing instruments prohibiting certain activities specified in section 4947(a)(2).

(c) *Taxation of nonexempt charitable remainder trusts.* If the charitable remainder trust has any unrelated business taxable income (within the meaning of section 512 and the regulations thereunder, determined as if part III, subchapter F, chapter 1, subtitle A of the Code applied to such trust) for any taxable year, the trust is subject to all of the taxes imposed by subtitle A of the Code for such taxable year. For taxable years beginning after December 31, 1969, unrelated business taxable income includes debt-financed income. The taxes imposed by subtitle A of the Code upon a nonexempt charitable remainder trust shall be computed under the rules prescribed by subparts A and C, part 1, subchapter J, chapter 1, subtitle A of the Code for trusts which may accumulate income or which distribute corpus. The provisions of subpart E, part 1 of such subchapter J, are not applicable with respect to a nonexempt charitable remainder trust. The application of the above rules may be illustrated by the following example:

Example. In 1975, a charitable remainder trust which has a calendar year as its taxable year has \$1,000 of ordinary income, including \$100 of unrelated business taxable income, and no deductions other than under sections 642(b) and 661(a). The trust is required to pay out \$700 for 1975 to a noncharitable recipient. Because the trust has some unrelated business taxable income in 1975, it is not exempt for such year. Consequently, the trust is taxable on all of its income as

a complex trust. Under section 661(a) of the Code, the trust is allowed a deduction of \$700. Under section 642(b) of the Code, the trust is allowed a deduction of \$100. Consequently, the taxable income of the trust for 1975 is \$200 (\$1,000 — \$700 — \$100).

(d) *Treatment of annual distributions to recipients*—(1) *Character of distributions*—(i) *Order of distributions*. Annuity and unitrust amounts shall be treated as having the following characteristics in the hands of the recipients (whether or not the trust is exempt) without credit for any taxes which are imposed by subtitle A of the Code on the trust:

(a) *Ordinary income*. First, as ordinary income to the extent of the sum of the trust's ordinary income for the taxable year of the trust and its undistributed ordinary income for prior years. An ordinary loss for the current year shall be used to reduce undistributed ordinary income for prior years and any excess shall be carried forward indefinitely to reduce ordinary income for future years. For purposes of this section, the amount of current and prior years' income shall be computed without regard to the deduction for net operating losses provided by sections 172 or 642(d).

(b) *Capital gain*. Second, as capital gain to the extent of the trust's undistributed capital gains. Undistributed capital gains of the trust are determined on a cumulative net basis under the rules of this subdivision without regard to the provisions of section 1212.

(1) *Long and short-term capital gains*. If, in any taxable year of the trust, the trust has both undistributed short-term capital gain and undistributed long-term capital gain, then the short-term capital gain shall be deemed distributed prior to any long-term capital gain.

(2) *Capital losses in excess of capital gains*. If the trust has for any taxable year capital losses in excess of capital gains, any excess of the net short-term capital loss over the net long-term capital gain for such year shall be a short-term capital loss in the succeeding taxable year and any excess of the net long-term capital

loss over the net short-term capital gain for such year shall be a long-term capital loss in the succeeding taxable year.

(3) *Capital gains in excess of capital losses*. If the trust has for any taxable year capital gains in excess of capital losses, any excess of the net short-term capital gain over the net long-term capital loss for such year shall be, to the extent not deemed distributed, a short-term capital gain in the succeeding taxable year and any excess of the net long-term capital gain over the net short-term capital loss for such year shall be, to the extent not deemed distributed, a long-term capital gain in the succeeding taxable year.

The application of the rules in this subdivision (b) may be illustrated by the following example:

Example. (i) The X Trust is a charitable remainder trust created on January 1, 1975, and has the calendar year as its taxable year. During the years indicated, it has the following capital transactions:

1975:	
	Long-term capital loss --- \$10
	Short-term capital gain --- \$ 5
1976:	
	Short-term capital gain --- \$20
	Short-term capital loss --- \$ 5
1977:	
	Long-term capital gain --- \$15

Distributions for 1975 and 1976 were not in excess of current and accumulated ordinary income for those years. In 1977, distributions exceeded current and accumulated ordinary income by \$5.

(ii) The treatment of the 1975 and 1976 transactions is as follows:

	Long-term capital loss recognized -----	\$ (10)
	Short-term capital gain recognized -----	5
	Net long-term capital loss carried forward to 1976	<u>\$ (5)</u>
1976:		
	Short-term capital gain recognized -----	\$ 20
	Short-term capital loss recognized -----	(5)

	Long-term capital loss carried forward from 1975 -----	(5)
	Net short-term capital gain carried forward to 1977 -----	<u>\$ 10</u>

1977:

	Long-term capital gain recognized -----	\$ 15
	Net short-term capital gain carried forward from 1976 -----	<u>\$ 10</u>

(iii) In 1977, the trust has long-term capital gain of \$15 and short-term capital gain of \$10. If the trust has both short-term capital gain and long-term capital gain for the same taxable year, the short-term capital gain is deemed distributed prior to the long-term capital gain. Therefore, the distribution of \$5 in 1977 is deemed to be short-term capital gain. The undistributed net short-term capital gain of \$5 is a short-term capital gain carried forward to 1978. The undistributed net long-term capital gain of \$15 is a long-term capital gain carried forward to 1978.

(c) *Other income*. Third, as other income (including income excluded under part III, subchapter B, chapter 1, subtitle A of the Code) to the extent of the sum of the trust's other income for the taxable year and its undistributed other income for prior years. A loss in this category for the current year shall be used to reduce undistributed income in such category for prior years and any excess shall be carried forward indefinitely to reduce such income for future years.

(d) *Corpus*. Finally, as a distribution of trust corpus. For purposes of this section, the term "corpus" means the net fair market value of the trust assets less the total undistributed income (but not loss) in each of the above categories.

(ii) *Rules relating to character of distributions*. The determination of the character of amounts distributed shall be made as of the end of the taxable year of the trust. Amounts treated as paid from one of the categories of income described in (a), (b) or (c) of subdivision (i) of this subparagraph shall be treated as consisting of the same proportion of each class of

items included in such category as the total of the current and accumulated income of each class of items bears to the total of the current and accumulated income for that category. A loss in one of such categories may not be used to reduce a gain in any other category. The provisions of subparts D and E, part 1, subchapter J, chapter 1, subtitle A of the Code are not applicable with respect to a charitable remainder trust (regardless of whether the trust is exempt).

(2) *Allocation of deductions.* Items of deduction of the trust for a taxable year of the trust which are deductible in determining taxable income (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) which are directly attributable to one or more classes of items within a category of income or to corpus (determined under subparagraph (1)(i) of this paragraph) shall be allocated to such classes of items or to corpus. All other allowable deductions for such taxable year which are not directly attributable to one or more classes of items within a category of income or to corpus (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) shall be allocated among the classes of items within the category (excluding classes of items with net losses) on the basis of the gross income of such classes for such taxable year reduced by the deductions allocated thereto under the first sentence of this subparagraph, but in no event shall the amount of expenses allocated to any class of items exceed such income of such class for the taxable year. Items of deduction which are not allocable under the above two sentences (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) may be allocated in any manner. All taxes imposed by subtitle A of the Code for which the trust is liable because it has unrelated business taxable income and all taxes imposed by chapter 42 of the Code shall be allocated to corpus. Any expense which is not deductible in determining taxable income and which is not allocable to any class of items described in subparagraph (1)(i)(c) of this paragraph shall be allocated to corpus. The deductions

allowable to a trust under sections 642(b), 642(c), 661, and 1202 are not allowed in determining the amount or character of any class of items within a category of income or corpus in the categories described in subparagraph (1) of this paragraph.

(3) *Allocation of income among recipients.* If there are two or more recipients, each will be treated as receiving his pro rata portion of the categories of income and corpus. The application of this rule may be illustrated by the following example:

Example. X transfers \$40,000 to a charitable remainder annuity trust which is to pay \$3,000 per year to X and \$2,000 per year to Y for a term of 5 years. During the first taxable year the trust has \$3,000 of ordinary income, \$500 of capital gain, and \$500 of tax exempt income after allocation of all expenses. X is treated as receiving ordinary income of \$1,800 ($\$3,000/\$5,000 \times \$3,000$), capital gain of \$300 ($\$3,000/\$5,000 \times \$500$), tax exempt income of \$300 ($\$3,000/\$5,000 \times \$500$), and corpus of \$600 ($\$3,000/\$5,000 \times [\$5,000 - \$4,000]$). Y is treated as receiving ordinary income of \$1,200 ($\$2,000/\$5,000 \times \$3,000$), capital gain of \$200 ($\$2,000/\$5,000 \times \$500$), tax exempt income of \$200 ($\$2,000/\$5,000 \times \$500$), and corpus of \$400 ($\$2,000/\$5,000 \times [\$5,000 - \$4,000]$).

(4) *Year of inclusion*—(i) *General rule.* To the extent required by this paragraph, the annuity or unitrust amount is includible in the recipient's gross income for the taxable year in which the annuity or unitrust amount is required to be distributed even though the annuity or unitrust amount is not distributed until after the close of the taxable year of the trust. If a recipient has a different taxable year (as defined in section 441 or 442) from the taxable year of the trust, the amount he is required to include in gross income to the extent required by this paragraph shall be included in his taxable year in which or with which ends the taxable year of the trust in which such amount is required to be distributed.

(ii) *Payments resulting from incorrect valuations.* Notwithstanding subdivision (i) of this subparagraph,

any payments which are made or required to be distributed by a charitable remainder trust pursuant to paragraph (a)(5) of this section, under paragraph (f)(3) of this section because of an amendment to the governing instrument, or under paragraphs (a)(1) of §§ 1.664-2 and 1.664-3 because of an incorrect valuation, shall, to the extent required by this paragraph, be included in the gross income of the recipient in his taxable year in which or with which ends the taxable year of the trust in which the amount is paid, credited, or required to be distributed. For rules relating to required adjustments of underpayments and overpayments of the annuity or unitrust amounts in respect of payments made prior to the amendment of a governing instrument, see paragraph (f)(3) of this section. There is allowable to a recipient a deduction from gross income for any amounts repaid to the trust because of an overpayment during the reasonable period of administration or settlement or until the trust is fully funded, because of an amendment, or because of an incorrect valuation, to the extent such amounts were included in his gross income. See section 1341 and the regulations thereunder for rules relating to the computation of tax where a taxpayer restores substantial amounts held under a claim of right.

(iii) *Rules applicable to year of recipient's death.* If the taxable year of the trust does not end with or within the last taxable year of the recipient because of the recipient's death, the extent to which the annuity or unitrust amount required to be distributed to him is included in the gross income of the recipient for his last taxable year, or in the gross income of his estate, is determined by making the computations required under this paragraph for the taxable year of the trust in which his last taxable year ends. (The last sentence of subdivision (i) of this subparagraph does not apply to such amounts.) The gross income for the last taxable year of a recipient on the cash basis includes (to the extent required by this paragraph) amounts actually distributed to the recipient before his death. Amounts required to be distributed which are

distributed to his estate, are included (to the extent required by this paragraph) in the gross income of the estate as income in respect of a decedent under section 691.

(5) *Distributions in kind.* The annuity or unitrust amount may be paid in cash or in other property. In the case of a distribution made in other property, the amount paid, credited, or required to be distributed shall be considered as an amount realized by the trust from the sale or other disposition of property. The basis of the property in the hands of the recipient is its fair market value at the time it was paid, credited, or required to be distributed. The application of these rules may be illustrated by the following example:

Example. On January 1, 1971, X creates a charitable remainder annuity trust, whose taxable year is the calendar year, under which X is to receive \$5,000 per year. During 1971, the trust receives \$500 of ordinary income. On December 31, 1971, the trust distributed cash of \$500 and a capital asset of the trust having a fair market value of \$4,500 and a basis of \$2,200. The trust is deemed to have realized a capital gain of \$2,300. X treats the distribution of \$5,000 as being ordinary income of \$500, capital gain of \$2,300 and trust corpus of \$2,200. The basis of the distributed property is \$4,500 in the hands of X.

(c) *Other distributions.*—(1) *Character of distributions.* An amount distributed by the trust to an organization described in section 170(c) other than the annuity or unitrust amount shall be considered as a distribution of corpus and of those categories of income specified in paragraph (d)(1) of this section in an order inverse to that prescribed in such paragraph. The character of such amount shall be determined as of the end of the taxable year of the trust in which the distribution is made after the character of the annuity or unitrust amount has been determined.

(2) *Distributions in kind.* In the case of a distribution of an amount to which subparagraph (1) of this paragraph applies, no gain or loss is realized by the trust by reason of a distribution in kind unless such distribu-

tion is in satisfaction of a right to receive a distribution of a specific dollar amount or in specific property other than that distributed.

(f) *Effective date.*—(1) *General rule.* The provisions of this section are effective with respect to transfers in trust made after July 31, 1969. Any trust created (within the meaning of applicable local law) prior to August 1, 1969, is not a charitable remainder trust even if it otherwise satisfies the definition of a charitable remainder trust.

(2) *Transfers to pre-1970 trusts.* Property transferred to a trust created (within the meaning of applicable local law) before August 1, 1969, whose governing instrument provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust, shall, for purposes of subparagraphs (1) and (3) of this paragraph, be deemed transferred to a trust created on the date of such transfer provided that the transfer occurs after July 31, 1969, and prior to October 18, 1971, and the transferred property and any undistributed income therefrom is severed and placed in a separate trust before December 31, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings begun before December 31, 1972, which are required to sever such property, become final.

(3) *Amendment of post-1969 trusts.* A trust created (within the meaning of applicable local law) subsequent to July 31, 1969, and prior to December 31, 1972, which is not a charitable remainder trust at the date of its creation, may be treated as a charitable remainder trust from the date it would be deemed created under § 1.664-1(a)(4) and (5)(i) for all purposes provided that all the following requirements are met:

(i) At the time of the creation of the trust, the governing instrument provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust.

(ii) The governing instrument of the trust is amended so that the trust will meet the definition of a charitable remainder trust and, if applicable, will

meet the requirement of paragraph (a)(5)(i) of this section that obligation to make payment of the annuity or unitrust amount with respect to property passing at death begin as of the date of death, before December 31, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings which are begun before December 31, 1972, and which are required to amend its governing instrument, become final. In the case of a trust created (within the meaning of applicable local law) subsequent to July 31, 1969, and prior to December 31, 1972, the provisions of section 508(d)(2)(A) shall not apply if the governing instrument of the trust is amended so as to comply with the requirements of section 508(e) before December 31, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings which are begun before December 31, 1972, and which are required to amend its governing instrument, become final. Notwithstanding the provisions of paragraphs (a)(3) and (a)(4) of §§ 1.664-2 and 1.664-3, the governing instrument may grant to the trustee a power to amend the governing instrument for the sole purpose of complying with the requirements of this section and § 1.664-2 or § 1.664-3 provided that at the creation of the trust, the governing instrument (a) provides for the payment of a unitrust amount described in § 1.664-3(a)(1)(i) or an annuity which meets the requirements of paragraph (a)(2) of §§ 1.664-2 or 1.664-3, (b) designates the recipients of the trust and the period for which the amount described in (a) of this subdivision (ii) is to be paid, and (c) provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust. The mere granting of such a power is not sufficient to meet the requirements of this subparagraph that the governing instrument be amended in the manner and within the time limitations of this subparagraph.

(iii) (a) Where the amount of the distributions which would have been made by the trust to a recipient if the amended provisions of such trust had been in effect from the time of creation of such trust exceeds the amount

of the distributions made by the trust prior to its amendment, the trust pays an amount equal to such excess to the recipient.

(b) Where the amount of distributions made to the recipient prior to the amendment of the trust exceeds the amount of the distributions which would have been made by such trust if the amended provisions of such trust had been in effect from the time of creation of such trust, such excess is repaid to the trust by the recipient.

See paragraph (d)(4) of this section for rules relating to the year of inclusion in the case of an underpayment to a recipient and the allowance of a deduction in the case of an overpayment to a recipient. A deduction for a transfer to a charitable remainder trust shall not be allowed until the requirements of this paragraph are met and then only if the deduction is claimed on a timely-filed return (including extensions) or on a claim for refund filed within the period of limitations prescribed by section 6511(a).

(g) *Transitional effective date.* Notwithstanding any other provision of this section, § 1.664-2, or § 1.664-3, the requirement of paragraph (a)(5)(i) of this section that interest accrue on overpayments and underpayments, the requirement of paragraph (a)(5)(ii) of this section that the unitrust amount accruing under the formula provided therein cease with the death of the last recipient, and the requirement that the governing instrument of the trust contain the provisions specified in paragraph (a)(1)(iv) of § 1.664-2 (relating to computation of the annuity amount in certain circumstances), paragraph (a)(1)(v) of § 1.664-3 (relating to computation of the unitrust amount in certain circumstances), paragraphs (b) of §§ 1.664-2 and 1.664-3 (relating to additional contributions), and paragraph (a)(1)(iii) of § 1.664-3 (relating to incorrect valuations), paragraphs (a)(6)(iv) of §§ 1.664-2 and 1.664-3 (relating to alternative remaindermen) shall not apply to:

(1) A will executed on or before December 31, 1972, if:

(i) The testator dies before December 31, 1975, without having repub-

lished the will after December 31, 1972 by codicil or otherwise,

(ii) The testator at no time after December 31, 1972, had the right to change the provisions of the will which pertain to the trust, or

(iii) The will is not republished by codicil or otherwise before December 31, 1975, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise, or

(2) A trust executed on or before December 31, 1972, if:

(i) The testator dies before December 31, 1975, without having amended the trust after December 31, 1972,

(ii) The trust is irrevocable on December 31, 1972, or

(iii) The trust is not amended before December 31, 1975, and the grantor is on such date and at all times thereafter under a mental disability to change the terms of the trust.

§ 1.664-2 Charitable remainder annuity trust.

(a) *Description.* A charitable remainder annuity trust is a trust which complies with the applicable provisions of § 1.664-1 and meets all of the following requirements:

(1) *Required payment of annuity amount.*—(i) *Payment of sum certain at least annually.* The governing instrument provides that the trust shall pay a sum certain not less often than annually to a person or persons described in subparagraph (3) of this paragraph for each taxable year of the period specified in subparagraph (5) of this paragraph. The trust will not be deemed to have engaged in an act of self-dealing (within the meaning of section 4941), to have unrelated debt-financed income (within the meaning of section 514), to have received an additional contribution (within the meaning of § 1.664-2(b)), or to have failed to function exclusively as a charitable remainder trust (within the meaning of § 1.664-1(a)(4)) merely because payment of the annuity amount is made after the close of the taxable year, provided that such payment is made within a reasonable time after the close of such taxable year. For purposes of the preceding sentence, a reasonable time will not

ordinarily extend beyond the date by which the trustee is required to file Form 1041-B (including extensions) for such year.

(ii) *Definition of sum certain.* A sum certain is a stated dollar amount which is the same either as to each recipient or as to the total amount payable for each year of such period. For example, a provision for an amount which is the same every year to A until his death and concurrently an amount which is the same every year to B until his death, with the amount to each recipient to terminate at his death, would satisfy the above rule. Similarly, provision for an amount to A and B for their joint lives and then to the survivor would satisfy the above rule. In the case of a distribution to an organization described in section 170(c) at the death of a recipient or the expiration of a term of years, the governing instrument may provide for a reduction of the stated amount payable after such a distribution provided that:

(a) The reduced amount payable is the same either as to each recipient or as to the total amount payable for each year of the balance of such period, and

(b) The requirements of subparagraph (2)(ii) of this paragraph are met.

(iii) *Sum certain stated as a fraction or percentage.* The stated dollar amount may be expressed as a fraction or a percentage of the initial net fair market value of the property irrevocably passing in trust as finally determined for Federal tax purposes. If the stated dollar amount is so expressed and such market value is incorrectly determined by the fiduciary, the requirement of this subparagraph will be satisfied if the governing instrument provides that in such event the trust shall pay to the recipient (in the case of an undervaluation) or be repaid by the recipient (in the case of an overvaluation) an amount equal to the difference between the amount which the trust should have paid the recipient if the correct value were used and the amount which the trust actually paid the recipient. Such payments or repayments must be made within a reasonable period after the final deter-

mination of such value. Any payment due to a recipient by reason of such incorrect valuation shall be considered to be a payment required to be distributed at the time of such final determination for purposes of paragraph (d)(4)(ii) of § 1.664-1. See paragraph (d)(4) of § 1.664-1 for rules relating to the year of inclusion of such payments and the allowance of a deduction for such repayments. See paragraph (b) of this section for rules relating to future contributions. For rules relating to required adjustments for underpayments or overpayments of the amount described in this paragraph in respect of payments made during a reasonable period of administration, see paragraph (a)(5) of § 1.664-1. The application of the rule permitting the stated dollar amount to be expressed as a fraction or a percentage of the initial net fair market value of the property irrevocably passing in trust as finally determined for Federal tax purposes may be illustrated by the following example:

Example. The will of X provides for the transfer of one-half of his residuary estate to a charitable remainder annuity trust which is required to pay to W for life an annuity equal to 5 percent of the initial net fair market value of the interest passing in trust as finally determined for Federal tax purposes. The annuity is to be paid on December 31 of each year computed from the date of X's death. The will also provides that if such initial net fair market value is incorrectly determined, the trust shall pay to W, in the case of an undervaluation, or be repaid by W, in the case of an overvaluation, an amount equal to the difference between the amount which the trust should have paid if the correct value were used and the amount which the trust actually paid. X dies on March 1, 1971. The executor files an estate tax return showing the value of the residuary estate as \$250,000 before reduction for taxes and expenses of \$50,000. The executor paid to W \$4,192 ($[\$250,000 - \$50,000] \times \frac{1}{2} \times 5 \text{ percent} \times 306/365$) on December 31, 1971. On January 1, 1972, the executor transfers one-half of the residue of the estate to the trust. The trust adopts the calendar year as its taxable

year. The value of the residuary estate is finally determined for Federal tax purposes to be \$240,000 ($\$290,000 - \$50,000$). Accordingly, the amount which the executor should have paid to W is \$5,030 ($[\$290,000 - \$50,000] \times \frac{1}{2} \times 5 \text{ percent} \times 306/365$). Consequently, an additional amount of \$838 ($\$5,030 - \$4,192$) must be paid to W within a reasonable period after the final determination of value for Federal tax purposes.

(iv) *Computation of annuity amount in certain circumstances—(a) Short taxable years.* The governing instrument provides that, in the case of a taxable year which is for a period of less than 12 months other than the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph, the annuity amount determined under subdivision (i) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the taxable year of the trust and the denominator of which is 365 (366 if February 29 is a day included in the numerator).

(b) *Last taxable year of period.* The governing instrument provides that, in the case of the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph, the annuity amount which must be distributed under subdivision (i) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the last day of the period specified in subparagraph (5) of this paragraph and the denominator of which is 365 (366 if February 29 is a day included in the numerator). See subparagraph (5) of this paragraph for a special rule allowing termination of payment of the annuity amount with the regular payment next preceding the termination of the period specified therein.

(2) *Minimum annuity amount—(i) General rule.* The total amount payable under subparagraph (1) of this paragraph is not less than 5 percent of the initial net fair market value of

the property placed in trust as finally determined for Federal tax purposes.

(ii) *Reduction of annuity amount in certain cases.* A trust will not fail to meet the requirements of this subparagraph by reason of the fact that it provides for a reduction of the stated amount payable upon the death of a recipient or the expiration of a term of years provided that:

(a) A distribution is made to an organization described in section 170 (c) at the death of such recipient or the expiration of such term of years, and

(b) The total amounts payable each year under subparagraph (1) of this paragraph after such distribution are not less than a stated dollar amount which bears the same ratio to 5 percent of the initial net fair market value of the trust assets as the net fair market value of the trust assets immediately after such distribution bears to the net fair market value of the trust assets immediately before such distribution.

(iii) *Rule applicable to inter vivos trust which does not provide for payment of minimum annuity amount.* In the case where the grantor of an inter vivos trust underestimates in good faith the initial net fair market value of the property placed in trust as finally determined for Federal tax purposes and specifies a fixed dollar amount for the annuity which is less than 5 percent of the initial net fair market value of the property placed in trust as finally determined for Federal tax purposes, the trust will be deemed to have met the 5 percent requirement if the grantor or his representative consents, by appropriate agreement with the District Director, to accept an amount equal to 20 times the annuity as the fair market value of the property placed in trust for purposes of determining the appropriate charitable contributions deduction.

(3) *Permissible recipients—(i) General rule.* The amount described in subparagraph (1) of this paragraph is payable to or for the use of a named person or persons, at least one of which is not an organization described in section 170(c). If the amount described in subparagraph (1) of this paragraph is to be paid to an individ-

ual or individuals, all such individuals must be living at the time of the creation of the trust. A named person or persons may include members of a named class provided that, in the case of a class which includes any individual, all such individuals must be alive and ascertainable at the time of the creation of the trust unless the period for which the annuity amount is to be paid to such class consists solely of a term of years. For example, in the case of a testamentary trust, the testator's will may provide that an amount shall be paid to his children living at his death.

(ii) *Power to alter amount paid to recipients.* A trust is not a charitable remainder annuity trust if any person has the power to alter the amount to be paid to any named person other than an organization described in section 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E, Part I, subchapter J, chapter 1, subtitle A of the Code were applicable to such trust. See paragraph (a)(4) of this section for a rule permitting the retention by a grantor of a testamentary power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). For example, the governing instrument may not grant the trustee the power to allocate the annuity among members of a class unless such power falls within one of the exceptions to section 674(a).

(4) *Other payments.* No amount other than the amount described in subparagraph (1) of this paragraph may be paid to or for the use of any person other than an organization described in section 170(c). An amount is not paid to or for the use of any person other than an organization described in section 170(c) if the amount is transferred for full and adequate consideration. The trust may not be subject to a power to invade, alter, amend, or revoke for the beneficial use of a person other than an organization described in section 170(c). Notwithstanding the preceding sentence, the grantor may retain the power exercisable only by will to revoke or terminate the interest of any recipient other than an organization described

in section 170(c). The governing instrument may provide that any amount other than the amount described in subparagraph (1) of this paragraph shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170(c) provided that in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. For example, the governing instrument may provide that a portion of the trust assets may be distributed currently, or upon the death of one or more recipients, to an organization described in section 170(c).

(5) *Period of payment of annuity amount—(i) General rules.* The period for which an amount described in subparagraph (1) of this paragraph is payable begins with the first year of the charitable remainder trust and continues either for the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. Only an individual or an organization described in section 170(c) may receive an amount for the life of an individual. If an individual receives an amount for life, it must be solely for his life. Payment of the amount described in subparagraph (1) of this paragraph may terminate with the regular payment next preceding the termination of the period described in this subparagraph. The fact that the recipient may not receive such last payment shall not be taken into account for purposes of determining the present value of the remainder interest. In the case of an amount payable for a term of years, the length of the term of years shall be ascertainable with certainty at the time of the creation of the trust, except that the term may be terminated by the death of the recipient or by the grantor's exercise by will of a retained power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). In any event, the period may not extend beyond either the life or lives of a named individual or individuals or a term of years not to exceed 20 years. For example, the governing instrument may not provide for the payment of an

annuity amount to A for his life and then to B for a term of years because it is possible for the period to last longer than either the lives of recipients in being at the creation of the trust or a term of years not to exceed 20 years. On the other hand, the governing instrument may provide for the payment of an annuity amount to A for his life and then to B for his life or a term of years (not to exceed 20 years), whichever is shorter (but not longer), if both A and B are in being at the creation of the trust because it is not possible for the period to last longer than the lives of recipients in being at the creation of the trust.

(ii) *Relationship to 5 percent requirement.* The 5 percent requirement provided in subparagraph (2) of this paragraph must be met until the termination of all of the payments described in subparagraph (1) of this paragraph. For example, the following provisions would satisfy the above rules:

(a) An amount equal to at least 5 percent of the initial net fair market value of the property placed in trust to A and B for their joint lives and then to the survivor for his life;

(b) An amount equal to at least 5 percent of the initial net fair market value of the property placed in trust to A for life or for a term of years not longer than 20 years, whichever is longer (or shorter);

(c) An amount equal to at least 5 percent of the initial net fair market value of the property placed in trust to A for a term of years not longer than 20 years and then to B for life (provided B was living at the date of creation of the trust);

(d) An amount to A for his life and concurrently an amount to B for his life (the amount to each recipient to terminate at his death) if the amount given to each individual is not less than 5 percent of the initial net fair market value of the property placed in trust; or

(e) An amount to A for his life and concurrently an equal amount to B for his life, and at the death of the first to die, the trust to distribute one-half of the then value of its assets to an organization described in section 170(c), if the total of the amounts given to

A and B is not less than 5 percent of the initial net fair market value of the property placed in trust.

(6) *Permissible Remaindermen*—

(i) *General rule.* At the end of the period specified in subparagraph (5) of this paragraph the entire corpus of the trust is required to be irrevocably transferred, in whole or in part, to or for the use of one or more organizations described in section 170(c) or retained, in whole or in part, for such use.

(ii) *Treatment of Trust.* If all of the trust corpus is to be retained for such use, the taxable year of the trust shall terminate at the end of the period specified in subparagraph (5) of this paragraph and the trust shall cease to be treated as a charitable remainder trust for all purposes. If all or any portion of the trust corpus is to be transferred to or for the use of such organization or organizations, the trustee shall have a reasonable time after the period specified in subparagraph (5) of this paragraph to complete the settlement of the trust. During such time, the trust shall continue to be treated as a charitable remainder trust for all purposes, such as sections 664, 4947(a)(2), and 4947(b)(3)(B). Upon the expiration of such period, the taxable year of the trust shall terminate and the trust shall cease to be treated as a charitable remainder trust for all purposes. If the trust continues in existence, it will be subject to the provisions of section 4947(a)(1) unless the trust is exempt from taxation under section 501(a). For purposes of determining whether the trust is exempt under section 501(a) as an organization described in section 501(c)(3), the trust shall be deemed to have been created at the time it ceases to be treated as a charitable remainder trust.

(iii) *Concurrent or successive remaindermen.* Where interests in the corpus of the trust are given to more than one organization described in section 170(c) such interests may be enjoyed by them either concurrently or successively.

(iv) *Alternative remaindermen.* The governing instrument shall provide that if an organization to or for the use of which the trust corpus is to be transferred or for the use of which the

trust corpus is to be retained is not an organization described in section 170(c) at the time any amount is to be irrevocably transferred to or for the use of such organization, such amount shall be transferred to or for the use of one or more alternative organizations which are described in section 170(c) at such time or retained for such use. Such alternative organization or organizations may be selected in any manner provided by the terms of the governing instrument.

(b) *Additional contributions.* A trust is not a charitable remainder annuity trust unless its governing instrument provides that no additional contributions may be made to the charitable remainder annuity trust after the initial contribution. For purposes of this section, all property passing to a charitable remainder annuity trust by reason of death of the grantor shall be considered one contribution.

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder annuity trust.* For purposes of sections 170, 2055, 2106, and 2522, the fair market value of the remainder interest of a charitable remainder annuity trust (as described in this section) is the net fair market value (as of the appropriate valuation date) of the property placed in trust less the present value of the annuity. For purposes of this section, the term "appropriate valuation date" means the date on which the property is transferred to the trust by the donor except that, for purposes of section 2055 or 2106, it means the date of death unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder in which event it means the alternate valuation date. The present value of an annuity is computed under § 20.2031-10 of the Estate Tax Regulations regardless of when the trust was created.

(d) *Deduction for transfers to a charitable remainder annuity trust.* For rules relating to a deduction for transfers to a charitable remainder annuity trust, see sections 170, 2055, 2106, or 2522 and the regulations thereunder. Any claim for deduction on any return for the value of a remainder interest in a charitable re-

mainder annuity trust must be supported by a full statement attached to the return showing the computation of the present value of such interest. The deduction allowed by section 170 is limited to the fair market value of the remainder interest of a charitable remainder annuity trust regardless of whether an organization described in section 170(c) also receives a portion of the annuity. For a special rule relating to the reduction of the amount of a charitable contribution deduction with respect to a contribution of certain ordinary income property or capital gain property, see sections 170(e)(1)(A) or 170(e)(1)(B)(i) and the regulations thereunder. For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and the regulations thereunder.

Table A (1)

Table, single life, male, 6 percent, showing the present worth of an annuity, of a life interest, and of a remainder interest

Age	Annuity	Life estate	Remainder	Age	Annuity	Life estate	Remainder
(1)	(2)	(3)	(4)	(1)	(2)	(3)	(4)
0	15.6175	.93705	.06295	35	13.8758	.83255	.16745
1	16.0362	.96217	.03783	36	13.7425	.82455	.17545
2	16.0283	.96170	.03830	37	13.6036	.81622	.18378
3	16.0089	.96053	.03947	38	13.4591	.80755	.19245
4	15.9841	.95905	.04095	39	13.3090	.79854	.20146
5	15.9553	.95732	.04268	40	13.1538	.78923	.21077
6	15.9233	.95540	.04460	41	12.9934	.77960	.22040
7	15.8885	.95331	.04669	42	12.8279	.76967	.23033
8	15.8508	.95105	.04895	43	12.6574	.75944	.24056
9	15.8101	.94861	.05139	44	12.4819	.74891	.25109
10	15.7663	.94598	.05402	45	12.3013	.73808	.26192
11	15.7194	.94316	.05684	46	12.1158	.72695	.27305
12	15.6698	.94019	.05981	47	11.9253	.71552	.28448
13	15.6180	.93708	.06292	48	11.7308	.70385	.29615
14	15.5651	.93391	.06609	49	11.5330	.69198	.30802
15	15.5115	.93069	.06931	50	11.3329	.67997	.32003
16	15.4576	.92746	.07254	51	11.1308	.66785	.33215
17	15.4031	.92419	.07581	52	10.9267	.65560	.34440
18	15.3481	.92089	.07911	53	10.7200	.64320	.35680
19	15.2918	.91751	.08249	54	10.5100	.63060	.36940
20	15.2339	.91403	.08597	55	10.2960	.61776	.38224
21	15.1744	.91046	.08954	56	10.0777	.60466	.39534
22	15.1130	.90678	.09322	57	9.8552	.59131	.40869
23	15.0487	.90292	.09708	58	9.6297	.57778	.42222
24	14.9807	.89884	.10116	59	9.4028	.56417	.43583
25	14.9075	.89445	.10555	60	9.1753	.55052	.44948
26	14.8287	.88972	.11028	61	8.9478	.53687	.46313
27	14.7442	.88465	.11535	62	8.7202	.52321	.47679
28	14.6542	.87925	.12075	63	8.4924	.50954	.49046
29	14.5588	.87353	.12647	64	8.2642	.49585	.50415
30	14.4584	.86750	.13250	65	8.0353	.48212	.51788
31	14.3528	.86117	.13883	66	7.8060	.46836	.53164
32	14.2418	.85451	.14549	67	7.5763	.45458	.54542
33	14.1254	.84752	.15248	68	7.3462	.44077	.55923
34	14.0034	.84020	.15980	69	7.1149	.42689	.57311

Table A (1)

Table, single life, male, 6 percent, showing the present worth of an annuity, of a life interest, and of a remainder interest

Age	Annuity	Life estate	Remainder	Age	Annuity	Life estate	Remainder
(1)	(2)	(3)	(4)	(1)	(2)	(3)	(4)
70	6.8823	.41294	.58706	90	2.6536	.15922	.84078
71	6.6481	.39889	.60111	91	2.5162	.15097	.84903
72	6.4123	.38474	.61526	92	2.3917	.14350	.85650
73	6.1752	.37051	.62949	93	2.2801	.13681	.86319
74	5.9373	.35624	.64376	94	2.1802	.13081	.86919
75	5.6990	.34194	.65806	95	2.0891	.12535	.87465
76	5.4602	.32761	.67239	96	1.9997	.11998	.88002
77	5.2211	.31327	.68673	97	1.9145	.11487	.88513
78	4.9825	.29895	.70105	98	1.8331	.10999	.89001
79	4.7469	.28481	.71519	99	1.7554	.10532	.89468
80	4.5164	.27098	.72902	100	1.6812	.10087	.89913
81	4.2955	.25773	.74227	101	1.6101	.09661	.90339
82	4.0879	.24527	.75473	102	1.5416	.09250	.90750
83	3.8924	.23354	.76646	103	1.4744	.08846	.91154
84	3.7029	.22217	.77783	104	1.4065	.08439	.91561
85	3.5117	.21070	.78930	105	1.3334	.08000	.92000
86	3.3259	.19955	.80045	106	1.2452	.07471	.92529
87	3.1450	.18870	.81130	107	1.1196	.06718	.93282
88	2.9703	.17822	.82178	108	.9043	.05426	.94574
89	2.8052	.16831	.83169	109	.4717	.02830	.97170

Table A (2)

Table, single life, female, 6 percent, showing the present worth of an annuity, of a life interest, and of a remainder interest

Age	Annuity	Life estate	Remainder	Age	Annuity	Life estate	Remainder
(1)	(2)	(3)	(4)	(1)	(2)	(3)	(4)
0	15.8972	.95383	.04617	35	14.5989	.87593	.12407
1	16.2284	.97370	.02630	36	14.4975	.86985	.13015
2	16.2287	.97372	.02628	37	14.3915	.86349	.13651
3	16.2180	.97308	.02692	38	14.2811	.85687	.14313
4	16.2029	.97217	.02783	39	14.1663	.84998	.15002
5	16.1850	.97110	.02890	40	14.0468	.84281	.15719
6	16.1648	.96989	.03011	41	13.9227	.83536	.16464
7	16.1421	.96853	.03147	42	13.7940	.82764	.17236
8	16.1172	.96703	.03297	43	13.6604	.81962	.18038
9	16.0901	.96541	.03459	44	13.5219	.81131	.18869
10	16.0608	.96365	.03635	45	13.3781	.80269	.19731
11	16.0293	.96176	.03824	46	13.2290	.79374	.20626
12	15.9958	.95975	.04025	47	13.0746	.78448	.21552
13	15.9607	.95764	.04236	48	12.9147	.77488	.22512
14	15.9239	.95543	.04457	49	12.7496	.76498	.23502
15	15.8856	.95314	.04686	50	12.5793	.75476	.24524
16	15.8460	.95076	.04924	51	12.4039	.74423	.25577
17	15.8048	.94829	.05171	52	12.2232	.73339	.26661
18	15.7620	.94572	.05428	53	12.0367	.72220	.27780
19	15.7172	.94303	.05697	54	11.8436	.71062	.28938
20	15.6701	.94021	.05979	55	11.6432	.69859	.30141
21	15.6207	.93724	.06276	56	11.4353	.68612	.31388
22	15.5687	.93412	.06588	57	11.2200	.67320	.32680
23	15.5141	.93085	.06915	58	10.9980	.65988	.34012
24	15.4565	.92739	.07261	59	10.7703	.64622	.35378
25	15.3959	.92375	.07625	60	10.5376	.63226	.36774
26	15.3322	.91993	.08007	61	10.3005	.61803	.38197
27	15.2652	.91591	.08409	62	10.0587	.60352	.39648
28	15.1946	.91168	.08832	63	9.8118	.58871	.41129
29	15.1208	.90725	.09275	64	9.5592	.57355	.42645
30	15.0432	.90259	.09741	65	9.3005	.55803	.44197
31	14.9622	.89773	.10227	66	9.0352	.54211	.45789
32	14.8775	.89265	.10735	67	8.7639	.52583	.47417
33	14.7888	.88733	.11267	68	8.4874	.50924	.49076
34	14.6960	.88176	.11824	69	8.2068	.49241	.50759

Table A (2)

Table, single life, female, 6 percent, showing the present worth of an annuity, of a life interest, and of a remainder interest

Age	Annuity	Life estate	Remainder	Age	Annuity	Life estate	Remainder
(1)	(2)	(3)	(4)	(1)	(2)	(3)	(4)
70	7.9234	.47540	.52460	90	2.7068	.16241	.83759
71	7.6371	.45823	.54177	91	2.5502	.15301	.84699
72	7.3480	.44088	.55912	92	2.4116	.14470	.85530
73	7.0568	.42341	.57659	93	2.2901	.13741	.86259
74	6.7645	.40587	.59413	94	2.1839	.13103	.86897
75	6.4721	.38833	.61167	95	2.0891	.12535	.87465
76	6.1788	.37073	.62927	96	1.9997	.11998	.88002
77	5.8845	.35307	.64693	97	1.9145	.11487	.88513
78	5.5910	.33546	.66454	98	1.8331	.10999	.89001
79	5.3018	.31811	.68189	99	1.7554	.10532	.89468
80	5.0195	.30117	.69883	100	1.6812	.10087	.89913
81	4.7482	.28489	.71511	101	1.6101	.09661	.90339
82	4.4892	.26935	.73065	102	1.5416	.09250	.90750
83	4.2398	.25439	.74561	103	1.4744	.08846	.91154
84	3.9927	.23956	.76044	104	1.4065	.08439	.91561
85	3.7401	.22441	.77559	105	1.3334	.08000	.92000
86	3.5016	.21010	.78990	106	1.2452	.07471	.92529
87	3.2790	.19674	.80326	107	1.1196	.06718	.93282
88	3.0719	.18431	.81569	108	.9043	.05426	.94574
89	2.8808	.17285	.82715	109	.4717	.02830	.97170

Table B

Table showing the present worth at 6 percent of an annuity for a term certain, of an income interest for a term certain, and of a remainder interest postponed for a term certain.

Yrs.	Annuity	Term Certain.	Remainder	Yrs.	Annuity	Term Certain	Remainder
1	0.9434	0.056604	0.943369	31	13.9291	0.835745	0.164255
2	1.8334	.110004	.889996	32	14.0840	.845043	.154957
3	2.6730	.160381	.839619	33	14.2302	.853814	.146186
4	3.4651	.207906	.792094	34	14.3681	.862088	.137912
5	4.2124	.252742	.747258	35	14.4982	.869895	.130105
6	4.9173	.295039	.704961	36	14.6210	.877259	.122741
7	5.5824	.334943	.665057	37	14.7368	.884207	.115793
8	6.2098	.372588	.627412	38	14.8460	.890761	.109239
9	6.8017	.408102	.591808	39	14.9491	.896944	.103056
10	7.3601	.441605	.558395	40	15.0463	.902778	.097222
11	7.8869	.473212	.526788	41	15.1380	.908281	.091719
12	8.3838	.503031	.496969	42	15.2245	.913473	.086527
13	8.8527	.531161	.468839	43	15.3062	.918370	.081630
14	9.2950	.557699	.442301	44	15.3832	.922991	.077009
15	9.7122	.582735	.417265	45	15.4558	.927350	.072650
16	10.1059	.606354	.393646	46	15.5244	.931462	.068538
17	10.4773	.628636	.371364	47	15.5890	.935342	.064658
18	10.8276	.649656	.350344	48	15.6500	.939002	.060998
19	11.1581	.669487	.330513	49	15.7076	.942454	.057546
20	11.4699	.688195	.311805	50	15.7619	.945712	.054288
21	11.7641	.705845	.294155	51	15.8131	.948785	.051215
22	12.0416	.722495	.277505	52	15.8614	.951684	.048316
23	12.3034	.738203	.261797	53	15.9070	.954418	.045582
24	12.5504	.753021	.246979	54	15.9500	.956999	.043001
25	12.7834	.767001	.232999	55	15.9905	.959433	.040567
26	13.0032	.780190	.219810	56	16.0288	.961729	.038271
27	13.2105	.792632	.207368	57	16.0649	.963895	.036105
28	13.4062	.804370	.195630	58	16.0990	.965939	.034061
29	13.5907	.815443	.184557	59	16.1311	.967867	.032133
30	13.7648	.825890	.174110	60	16.1614	.969686	.030314

ANNUITY Trust

SAMPLE PROVISIONS - REV. RUL. 72-396

SAMPLE PROVISIONS - ANNUITY TRUST GOVERNING INSTRUMENT

REVENUE RULING 72 - 395

SECTION 1. PURPOSE

The purpose of this Revenue Ruling is to set forth illustrative sample provisions for inclusion in the governing instrument of a charitable remainder trust that may be used to satisfy the requirements of section 664 of the Internal Revenue Code of 1954 and the Income Tax Regulations applicable thereto.

SEC. 2. BACKGROUND

.01 The Tax Reform Act of 1969 imposed new requirements which must be satisfied by a charitable remainder trust in order for an income, gift, or estate tax deduction to be allowed for the transfer of a remainder interest to charity. The new requirements are contained in section 664 of the Code and in the regulations promulgated thereunder.

.02 In general, a charitable remainder trust is a trust which provides for a specified distribution at least annually for life or a term of years, to one or more beneficiaries, at least one of which is not a charity, with an irrevocable remainder interest to be held for the benefit of, or paid over to, charity. In order to qualify under section 664 of the Code, the trust must satisfy the requirements of either a charitable remainder annuity trust or a charitable remainder unitrust.

SEC. 3. INSTRUCTIONS TO TAXPAYERS

.01 This Revenue Ruling contains sample illustrative provisions that may be included in the governing instrument of a charitable remainder annuity trust and a charitable remainder unitrust. These sample provisions include the mandatory provisions and certain permissible optional provisions referred to in the regulations. Provisions corresponding to these sample provisions will be accepted by the Internal Revenue Service in the absence of any showing that they are not enforceable under applicable local law.

.02 The language and format of the sample provisions included in this Revenue Ruling are merely examples of provisions which comply with the requirements and options in the regulations. There is no fixed language or format which must be used, and any other language or format that satisfies the requirements of the regulations will be acceptable. Incorporation of a regulatory requirement in the governing instrument of the trust by a short, specific, and descriptive reference to the requirement and its citation in the regulations will also be acceptable if such a reference incorporating the regulatory requirement into the governing instrument is effective under local law.

However, a general provision stating that the grantor or testator intends to create a charitable remainder trust and incorporating by general reference all necessary requirements of the Internal Revenue Code and regulations will not, by itself, be sufficient.

.03 The trust instrument must create a valid trust under applicable local law in order to qualify as a charitable remainder trust. Thus, in addition to complying with the regulations, the trust instrument should incorporate any additional provisions relating to charitable trusts that are required under applicable local law.

.04 The trust instrument may contain provisions in addition to those provisions which are intended to satisfy the requirements of the regulations, but care should be taken to determine that such provisions are not in conflict with the regulations.

SEC. 4 CHARITABLE REMAINDER ANNUITY TRUST; MANDATORY PROVISIONS

.01 Under section 1.664-2 (a) (1) of the regulations, one of the requirements of a charitable remainder annuity trust is that the governing instrument of the trust provide that the trust shall pay a sum certain not less often than annually to one or more persons described in section 1.664-2 (a) (3) for the period specified in section 1.664-2 (a) (5). Section 1.664-2 (a) (2) (i) requires that the annuity amount must be at least 5 percent of the initial net fair market value of the assets placed in trust. Section 1.664-2 (a) (3) provides that the sum certain must be payable to or for the use of a named person or persons, at least one of which is not an organization described in section 170 (c) of the Code. Section 1.664-2 (a) (5) provides that the sum certain may be payable for either the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

The trustee shall pay to A during his life an annuity amount of \$Y in each taxable year of the trust. The annuity amount shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the annuity amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) 5 Percent test. The annuity amount must be at least 5 percent of the initial net fair market value of the assets placed in trust.

(2) Annuity amount stated as a fraction or percentage. If the annuity amount is stated as a fraction or percentage rather than as a dollar amount, a provision must be included in the governing instrument regarding incorrect valuations. See section 5.01.

(3) Source of payment. The annuity amount may be paid from trust income or principal, but it must be paid from either of the two in all events. It should be noted that in many jurisdictions, the payment of the annuity amount is restricted to the income of the trust unless otherwise indicated. In such jurisdictions, it is necessary that such restrictions be removed by the governing instrument of the trust. The above provision removes such restrictions. Any income of the trust in excess of the annuity amount may, but need not, be added to principal. Care should be taken, however, to assure that, under applicable local law, such excess income is retained by the trust. The above provision so provides.

(4) Payment of annuity amount in installments.

The annuity amount may be paid to the recipient annually or in equal or unequal installments throughout the year. The first and each succeeding installment should fall due at the end of the period to which it applies. The amount of the charitable deduction will be affected by the frequency of payment, by whether the installments are equal or unequal, and by whether each installment must await the end of the period for which it is paid.

(5) Term of years. As an alternative to the payment of the annuity amount for the recipient's life, the annuity amount may be paid to the recipient for a term of years (not to exceed 20 years). See section 1.664-2(a)(5)(i).

(6) Concurrent or successive recipients. The annuity amount may be paid to concurrent or successive recipients so long as the 5 percent test is met. See section 1.664-2(a)(5).

(7) Payment of a portion of the annuity amount to charity. Any part, but not all, of the annuity amount may be paid to charity instead of to a noncharitable recipient. See section 1.664-2(a)(3)(i).

.02 Under section 1.664-2(a)(6)(i), the entire corpus of the trust must be irrevocably transferred to or for the use of one or more organizations described in section 170 (c) of the Code or retained for such use upon the termination of all noncharitable interests. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

Upon the death of A, the trustee shall distribute all of the then principal and income of the trust, other than any amount due A, to M charity.

The following comments pertain to the sample provision described above:

(1) Permissible remaindermen. M charity must be an organization described in section 170 (c) of the Code at the time of the transfer to the charitable remainder annuity trust. See section 1.664-2 (a) (6) (i). If a deduction is sought under section 2055 or 2522 of the Code, M charity must also be an organization described in section 2055 (a) or 2522 (a) or (b), respectively, of the Code.

(2) Permissible dispositions of remainder interest. Upon the termination of the noncharitable interests, the charitable remainder may be distributed outright to one or more charities, may be held in further trust for one or more charities, may be held in further trust for charitable purposes, or any combination of the foregoing. See section 1.664-2 (a) (6) (i).

.03 Under section 1.664-2 (a) (6) (iv), the governing instrument of the trust shall provide that, in the event that an organization to or for the use of which the trust corpus is to be transferred or retained is not an organization described in section 170 (c) of the Code at the time when any amount is to be irrevocably transferred to or for the use of such organization, such amount shall be transferred to or for the use of, or retained for the use of, one or more alternative organizations which are described in section 170 (c) at such time. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

If M charity is not an organization described in section 170 (c) of the Internal Revenue Code of 1954 at the time when any principal or income of the trust is to be distributed to it, the trustee shall distribute such principal or income to one or more organizations then described in section 170 (c) as the trustee shall select in his sole discretion.

The following comments pertain to the sample provision described above:

(1) Manner of selection of alternative charitable remainderman. One or more alternate charities may be selected in any manner provided in the trust instrument. See section 1.66-2 (a)(6)(iv).

(2) Cross references. See comments (1) and (2) in section 4.02.

.04 Under section 1.664-2 (a)(1)(iv)(a), the governing instrument shall provide that, in the case of a taxable year which is for a period of less than 12 months, the annuity amount required to be paid shall be the sum certain multiplied by a fraction the numerator of which is the number of days in the taxable year of the trust and the denominator of which is 365 (366 if February 29 is a day included in the numerator). Section 1.664-2 (a)(1)(iv)(b) provides that, in the case of the taxable year in which occurs the termination of the noncharitable interests, the annuity amount required to be paid shall be the sum certain multiplied by a fraction the numerator of which is the number of days between the beginning of such taxable year and the termination of such noncharitable interests and the denominator of which is 365 (366 if February 29 is a day included in the numerator). The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

In determining the annuity amount, the trustee shall prorate the same, on a daily basis, for a short taxable year and for the taxable year of A's death.

.05 Under section 1.664-2 (b), the governing instrument shall provide that no additional contributions may be made to the trust after the initial contribution. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

No additional contributions shall be made to the trust after the initial contribution.

The following comment pertains to the sample provision described above:

Property passing by reason of death. All property passing to the trust by reason of the death of the grantor shall be considered one contribution. See Section 1.664-2 (b).

.06 Section 4947 (a)(2) of the Code makes section 508 (e) of the Code applicable to a charitable remainder annuity trust to the extent that other provisions of chapter 42 of the Code are also made applicable to such a trust. Section 4947 (a)(2) of the Code makes sections 4941, 4943, 4944, and 4945 of the Code applicable to such trusts except for the payment of the annuity amount to the income beneficiary. Section 4947 (b)(3)(B) of the Code excludes such trusts from the application of sections 4943 and 4944 of the Code in cases where a deduction was allowed for amounts going to every remainder beneficiary but not to any income beneficiary. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the mandatory provision described in this subsection:

Except for the payment of the annuity amount to A, the trustee is prohibited from engaging in any act of self-dealing as defined in section 4941 (d) of the Internal Revenue Code of 1954, from retaining any excess business holdings as defined in section 4943 (c) of the Code which would subject the trust to tax under section 4943 of the Code, from making any investments which would subject the trust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945 (d) of the Code. The trustee shall make distributions at such time and in such manner as not to subject the trust to tax under section 4942 of the Code.

^bThe following comments pertain to the sample provision described above:

(1) Rule if part of the annuity amount is paid to charity. The governing instrument of the trust must prohibit the trustee from engaging in activities described in sections 4943 and 4944 of the Code during any period in which any part of the annuity amount is paid to charity. The above provision satisfies this requirement.

(2) Application of provisions after the trust ceases to be a charitable remainder annuity trust. To retain its exempt status after the trust ceases to be a charitable remainder annuity trust, the trust's governing instrument must also prohibit the trustee from engaging in any activities described in sections 4943 and 4944 of the Code and must require the trustee to distribute property at such times and in such manner as not to subject the trust to tax under section 4942 of the Code during any period after the date the trust is no longer treated as a trust described in section 4947 (a) (2) of the Code and the regulations thereunder. The above provision satisfies this requirement. See section 1.664-2 (a)(6)(ii).

(3) Application of state law. See section 13.8 (b) of the Temporary Income Tax Regulations under the Tax Reform Act of 1969 providing for the satisfaction of the requirements of section 508 (c) of the Code by applicable provisions of state law. If these requirements are satisfied by applicable provisions of state law, there is no need specifically to refer to them in the trust agreement.

SEC. 5. CHARITABLE REMAINDER ANNUITY TRUST; OPTIONAL PROVISIONS

.01 Under section 1.664-2 (a) (1) (iii) of the regulations, the sum certain may be expressed as a fraction or a percentage of the initial net fair market value of the property irrevocably passing in trust as finally determined for Federal tax purposes if the governing instrument also provides that, in the event that such value is incorrectly determined by the fiduciary, the trust shall pay to the recipient (in the case of an undervaluation) or be repaid by the recipient (in the case of an overvaluation) an amount equal to the difference between the amount which the trust should have paid the recipient if the correct value were used and the amount which the trust actually paid the recipient. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the optional provision described in this subsection:

The trustee shall pay to A in each taxable year of the trust during his life an annuity amount equal to Y percent of the initial net fair market value of the assets constituting the trust. In determining such value, assets shall be valued at their values as finally determined for Federal tax purposes. If the initial net fair market value of the assets constituting the trust is incorrectly determined by the fiduciary, then within a reasonable period after such final determination, the trustee shall pay to A in the case of an undervaluation or shall receive from A in the case of an overvaluation an amount equal to the difference be-

tween the annuity amount properly payable and the annuity amount actually paid. The annuity amount shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the annuity amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) 5 Percent test. The annuity amount percentage must be at least 5 percent. See section 1.664-2 (a) (2) (i).

(2) Annuity amount expressed as the greater of two amounts. The annuity amount may also be expressed as the greater of a stated dollar amount or a fixed percentage (not less than 5 percent) of the initial value of the assets placed in trust.

(3) Provisions replaced. The optional provision set forth above may be used in lieu of the provision set forth in section 4.01.

(4) Cross references. See comments (3) through (7) in section 4.01.

.02 Section 1.664-1 (a) (5) (i) provides, in effect, that a deduction is not allowable under section 2055 or 2106 of the Code unless the obligation to pay the annuity amount with respect to the property passing in trust at the date of death begins as of the date of death of the decedent. Nonetheless, the requirement to pay such amount may be deferred until the end of the taxable year of the trust in which occurs the complete funding of the trust if such deferral is permitted by applicable local law or authorized by the provisions of the governing instrument. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the optional provision described in this subsection:

All the rest, residue and remainder of my property and estate, real and personal, of whatever nature and wherever situated, I give, devise, and bequeath to my trustee in trust, to invest and reinvest the same during the life of A and in each taxable year of the trust to pay to A an annuity amount equal to Y percent of the initial net fair market value of the assets constituting the trust. In determining such value, assets shall be valued at their values as finally determined for Federal tax purposes. If the initial net fair market value of the assets constituting the trust is incorrectly determined by the fiduciary, then within a reasonable period after such final determination, the trustee shall pay to A (in the case of an undervaluation) or shall receive from A (in the case of an overvaluation) an amount equal to the difference between the annuity amount properly payable and the annuity amount actually paid. The annuity amount shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the annuity amount shall be added to principal.

The obligation to pay the annuity amount shall commence with the date of my death, but payment of the annuity amount may be deferred from the date of my death of the end of the taxable year in which occurs the complete funding of the trust. Payment of the annuity amount so deferred, plus interest computed at 6 percent a year, compounded annually, shall be made within a reasonable time after the occurrence of said event.

The following comments pertain to the sample provision described above:

(1) Deferral of annuity amount for period of administration. The second paragraph of the above provision may be included in cases where funds pass to a charitable remainder annuity trust by reason of death, but the actual amount passing in trust may not be known until the trust has been completely funded.

(2) Provisions replaced. The optional provision set forth above may be used in lieu of the provision set forth in section 4.01 and the optional provision set forth in section 5.01.

(3) Cross references. See comments (3) through (7) in section 4.01 and comments (1) and (2) in section 5.01.

.03 Under section 1.664-2 (a) (3) (ii), "a trust is not a charitable remainder trust if any person has the power to alter the amount to be paid to any named person, other than an organization described in section 170 (c), of the Code if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E (sections 671 through 678 of the Code) were applicable of the trust. Consequently, it is possible to grant to the trustee the power to allocate the annuity amount among members of a class if such power comes within the exception to section 674 (a) of the Code provided in section 674 (c). The following is a sample provision for inclusion in the governing instrument of such a power:

The trustee shall pay an annuity amount of \$Y in each taxable year of the trust to such member or members of a class of persons consisting of A, B, and C in such amounts and proportions as the trustee in its absolute discretion shall from time to time determine until the last to die of A, B, and C. The trustee may pay the annuity amount to any one member of said class or may apportion it among the various members in such manner as the trustee shall from time to time deem advisable. The annuity amount shall be paid first from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the annuity amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) Gifts to a class. A, B, and C must be individuals living at the creation of the trust. The annuity amount may also be allocated among members of a class such as "children" or "issue" for their lives, provided that the class is closed and all members of the class are living and ascertainable at the creation of the trust. The annuity amount may also be allocated among the members of such a class for a term of years (not to exceed 20 years), in which event the members of the class need not be living or ascertainable at the creation of the trust. See section 1.664-2 (a) (3) (i).

(2) Type of power. The power to allocate annuity amount among members of a class must not cause any person to be treated as the owner of any part or all of the trust under the rules of sections 671 through 678 of the Code. See section 1.664-2 (a) (3) (ii).

(3) Power to delay payment not permitted. The power to allocate the annuity amount may not include a power to delay payment of the annuity amount, i.e., the entire annuity amount must be paid out for each taxable

year of the trust. See section 1.664-2 (a) (1) (i).

(4) Provisions replaced. The optional provision set forth above may be used in lieu of the provision set forth in section 4.01.

(5) Cross reference. See comments (1) through (7) in section 4.01.

.04 Under section 1.664-2 (a) (1) (i), the stated dollar amount must be the same either as to each recipient or as to the total amount payable for each year of the term of years or the lives of the recipients. However, under sections 1.664-2 (a) (1) (i) and K 1.664-2 (a) (2) (ii), the stated dollar amount may be reduced at the death of a recipient or expiration of a term of years if: (1) the reduced amount is the same either as to each recipient or as to the total amount payable each year for the balance of the period during which annuity amounts are to be paid, (2) there is a distribution to an organization described in section 170 (c) of the Code at the death of the recipient or expiration of the term of years, and

(3) the total amounts payable each year after such distribution are not less than a stated dollar amount which bears the same ratio to 5 percent of the initial net fair market value of the trust assets as the net fair market value of the trust assets immediately after such distribution bears to the net fair market value of the trust assets immediately before such distribution. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the optional provision described in this subsection:

During the joint lives of A and B, the trustee shall, in each taxable year of the trust, pay to A an annuity amount of \$X and pay to B an annuity amount of \$Y. The annuity amounts shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the annuity amounts shall be added to principal. Upon the death of the first to die of A and B, the trustee shall distribute \$Z (or P percent of the trust assets) to M charity, and thereafter the trustee shall pay, in equal quarterly installments, to the survivor of A and B, for his life, an annuity amount, in each taxable year of the trust, which bears the same ratio to 5 percent of the initial net fair market value of the trust assets as the net fair market value of the trust assets, valued as of the date of distribution, less \$Z (or P percent of the trust assets bears), to such fair market value as of the date of distribution.

The following comments pertain to the sample provision described above:

(1) 5 Percent test. The sum of \$X and \$Y must not be less than 5 percent of the initial net fair market value of the assets placed in trust. See section 1.664-2 (a) (2) (i).

(2) Annuity amount larger than minimum amount provided above. The above provision provides a formula to calculate the minimum annuity amount which must be paid to the survivor of A and B. The annuity amount paid to the survivor of A and B may be greater than that provided, but in no event may it exceed the annual aggregate annuity amount paid to A and B during their joint lives.

(3) Provision replaced. The optional provision set forth above may be used in lieu of the provision set forth in section 4.01.

(4) **Cross reference.** See comments (2) through (7) in section 4.01. See section 5.05 for rules requiring that the adjusted basis of assets distributed to charity in kind be fairly representative of the adjusted basis of all assets available for distribution on the date of distribution.

.05 Under section 1.664-2 (a) (4), the governing instrument may provide that any amount, other than the annuity amount, shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170 (c) of the Code provided that, in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. The following is a sample provision for inclusion in the governing instrument which satisfies the requirements of the optional provision described in this subsection:

During the life of A, the trustee may pay to M charity any income of the trust in excess of the annuity amount payable to A for the taxable year of the trust in which the income is earned. The adjusted basis for Federal income tax purposes of any trust property which the trustee distributes in kind to charity during the life of A must be fairly representative of the adjusted basis for such purposes of all trust property available for distribution on the date of distribution.

The following comment pertains to the sample provision described above:

Permitted distributions to charity. The governing instrument may permit or require distributions of trust assets to charity prior to the termination of all noncharitable interests. In such cases, the above provision with respect to adjusted basis is mandatory unless the governing instrument prohibits the trustee from satisfying such distributions in kind.

.06 Under section 1.664-2 (a) (5) (i), the payment of the annuity amount may terminate with the regular payment next preceding the termination of all noncharitable interests. The following is a sample provision for inclusion in the governing instrument of the optional provision described in this subsection:

The trustee shall pay to A during his life an annuity amount of \$Y in each taxable year of the trust. However, the obligation of the trustee to pay such annuity amount shall terminate with the payment next preceding the death of A. The annuity amount shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the annuity amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) **Provisions replaced.** The optional provision set forth above may be used in lieu of the provision set forth in section 4.01.

(2) **Cross references.** See comments (1) through (7) in section 4.01.

.07 Under section 1.664-2 (a) (4), the grantor of the trust may retain the power, exercisable only by will, to revoke or terminate the interest of any recipient other than an organization described in section 170 (c) of the Code. The following is a sample provision for inclusion in the governing instrument of the optional provision described in this subsection:

The trustee shall pay to the settlor during his life an annuity amount of \$Y and upon the death of the settlor, if B survives him, the trustee shall pay to B during her life an annuity amount of \$Y. The settlor hereby expressly reserves the power, exercisable only by his will, to revoke and terminate the interest of B under this trust. Upon the first to occur of (i) the death of the survivor of the settlor and B or (ii) the death of the settlor if he effectively exercises his testamentary power to revoke and terminate the interest of B, the trustee shall distribute all of the then principal and income of the trust, other than any amount due A or B, to M charity. The annuity amount shall be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the annuity amount shall be added to principal.

The following comments pertain to the sample provision described above:

(1) **Provisions replaced.** The optional provision set forth above may be used in lieu of the provisions set forth in sections 4.01 and 4.02.

(2) **Cross references.** See comments (1) through (7) in sections 4.01 and comments (1) and (2) in section 4.02.

.08 Under section 1.664-1 (a) (3), the provisions of the trust may not include any provisions which restrict the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets. The following is a sample provision for inclusion in the trust instrument which insures that the requirement described in this subsection is met:

Nothing in this trust instrument shall be construed to restrict the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

.09 Under section 1.664-1 (a) (4), in order for a trust to be a charitable remainder annuity trust, the trust must function exclusively as a charitable remainder annuity trust from its creation. Consequently, a revocable inter vivos trust which is used to administer the estate of the decedent can never qualify as a charitable remainder annuity trust. However, the regulations permit the revocable inter vivos trust to distribute assets to another trust which does qualify as a charitable remainder annuity trust. The following is a sample provision for inclusion in the governing instrument of the revocable inter vivos trust which provides that the revocable inter vivos trust will be used to partially administer the estate of the decedent and then distribute assets to another trust which is a charitable remainder annuity trust:

The trustee shall pay to A all of the income from the trust assets for A's life, during which the trust shall be fully revocable by A. Upon A's death the trust shall become irrevocable and the trustee shall pay all debts, taxes and other expenses of the administration of A's estate. After the payment or satisfaction of all such debts, taxes and expenses, the trustee shall transfer all of the then principal and income of the trustee to the trustee of the charitable remainder annuity trust hereinafter established to be held, administered and distributed in the manner and according to the terms and conditions hereinafter provided.

ANNUITY trust.
Sample Agreement

CHARITABLE REMAINDER ANNUITY TRUST - TWO LIVES

SAMPLE FORM ONLY. COUNSEL SHOULD BE CONSULTED PRIOR TO THE DRAFTING OF ANY INSTRUMENT.

Comment: In many respects, the annuity trust and unitrust provisions are identical. Institutions should, however, be aware of the significant differences which are specifically commented on below. The regulation specifically applicable to annuity trusts is Regulation 81.664-2. IRS sample provisions are given in Revenue Ruling 72-395, page 229. If the number of beneficiaries are one or more than two, or are other than husband and wife, the language of this instrument should be modified as appropriate.

Alert: Practitioners should be aware of Revenue Ruling 77-374, I.R.B. 1977-40, 17, which requires that the possibility that the charitable transfer will not become effective is 'so remote as to be negligible.' If the possibility is greater than 5 percent that the beneficiaries will survive the exhaustion of the trust fund, the charitable income, estate and gift tax deductions will not be allowed.

This CHARITABLE REMAINDER ANNUITY TRUST AGREEMENT is made and entered into this _____ day of _____, 19____, between _____ of _____, County of _____, State of _____, (hereinafter called the "Donor"), and Excellence College, a corporation duly existing under the laws of the State of _____ and located in _____ in said State (hereinafter called the "College").

1. *Acknowledgment of Gift.* The College acknowledges receipt of the property listed on Exhibit A attached hereto as an irrevocable gift from the Donor, which property shall be held and administered IN TRUST as follows.

2. *Name of Annuity Trust.* This Annuity Trust shall be designated on the books and records of the College as the _____ Fund.

3. *Additional Contributions.* Neither the Donor nor any other person may at any time make additional contributions to the annuity trust.

Comment: Note that no additional contributions may be made. Omission of this prohibition will invalidate the trust. Regulation 81.664-2(b). Note that where such a trust is established by reason of death, all amounts distributable are treated as one contribution even though paid by an executor or trustee in installments during the period of administration.

4. *Trust Investments.* The College is authorized to continue investment of the trust in the assets set forth in Exhibit A or may sell said assets and reinvest the trust assets in any manner consistent with Section 664 of the Internal Revenue Code and the Regulations thereunder, provided that the College shall not conduct any activity and shall neither receive nor invest in any property which shall cause the trust to have any unrelated business taxable income within the meaning of Section 512 of the Internal Revenue Code. Nothing in this trust instrument shall be construed to restrict the College from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

5. *Payments to Beneficiaries.* During the lifetime of the Donor, the College shall annually pay the Donor _____ dollars or ____ percent of the initial net fair market value of all the property placed in trust, whichever is greater (hereinafter called the "annuity amount"). This amount shall be paid from income and, to the extent that income is insufficient, from principal. Any income of the trust for the taxable year in excess of the annuity amount shall be added to principal.

If the Donor's wife, _____ (hereinafter referred to as "Donor's wife"), survives the Donor, the annuity amount shall be paid to her during

her lifetime. However, the Donor hereby reserves the right to appoint and direct by his will, but only by express reference to this agreement, that all of the trust assets shall be irrevocably transferred to the College upon his death, subject to the provisions of Paragraph 10, whether or not the Donor's wife survives the Donor.

Except in the case of a short taxable year, the annuity amount shall be paid in four quarterly payments on or after March 31, June 30, September 30 and December 31 of each taxable year of the trust. If necessary, a fifth payment will be made on or before the date by which the College is required to file the Federal income tax return for the fund to bring the total payment to the actual amount to which the beneficiary or beneficiaries were entitled for that year. However, the obligation of the College to make payments to the Donor hereunder shall terminate with the regular quarterly payment next preceding the death of the Donor. If the Donor's wife survives the Donor and the Donor has failed to exercise the above-mentioned power of appointment, then the obligation of the College to make payments to the Donor's wife hereunder shall begin with the next regular quarterly payment after the Donor's death and shall terminate with the regular quarterly payment next preceding the Donor's wife's death.

Comment: The annual payment must be equal to at least 5% of the initial value of the assets transferred. Note that the payout is fixed at the time of gift, thus eliminating the need for annual valuation. The institution must nevertheless keep accounts of income, gain, and return of principal because:

- (a) as with a unitrust, the payments retain their character in the hands of the beneficiary for tax purposes; and*
- (b) unlike a true annuity, this instrument does not require the continuation of payments if the assets of the fund are exhausted.*

6. *Proration for Short Taxable Year.* In determining the annuity amount the College shall prorate the same on a daily basis for a short taxable year and for the period during which the last surviving beneficiary hereunder is living in the taxable year of his or her death.

Comment: Required by Regulation §1.664-1(f).

7. *Taxable Year.* The taxable year of this trust shall be the year ending December 31.

8. *Incorrect Valuation.* In the case where the initial net fair market value of the trust assets is incorrectly determined, the College shall pay to the income beneficiary in the case of an undervaluation, or the income beneficiary shall repay to the College in the case of an overvaluation, an amount equal to the difference between the amount which the trust should have paid if the correct value were used and the amount which the trust actually paid, within a reasonable period after the final determination of such value.

Comment: Required by Regulation §1.664-2(a)(1)(ii). Note also Regulation §1.664-2(a)(2)(iii), which provides that in the case of an undervaluation by the trustee, the donor may be forced to take a reduced deduction in order for the trust to qualify as a charitable remainder annuity trust. The initial valuation must therefore be made with extreme care.

9. *Definition of Income.* For the purposes of this trust, the term "income" has the same meaning as it does under Section 643(b) of the Internal Revenue Code and the Regulations thereunder. The term "income" shall mean net income after payment of any reasonable expenses of administering the trust. The following shall be treated as principal and not as "income":

(a) Gains and losses from the sale, exchange, redemption, or other disposition of investments;

(b) Stock dividends, stock splits, or similar distributions;

(c) Capital gain dividends of regulated investment companies (mutual funds);

(d) Liquidating distributions.

If interest-bearing securities are acquired at a premium over par or other stated value, the premium shall be amortized from income so as to restore the premium to principal.

10. *Use After Death of Beneficiaries.* Upon the death of the survivor of the Donor and the Donor's wife (or upon the death of the Donor if the Donor exercises the power of appointment under paragraph 5), the trust assets shall be irrevocably transferred to the College . . . [add (a), (b) or (c) as appropriate]

(a) (Principal Unrestricted) to be used in such manner as the trustees thereof may direct.

(b) (Permanent Fund - Income Unrestricted) to constitute an endowment fund which shall be known as the _____ Fund, such fund to be kept invested by the College and the annual income thereof used in such manner as the trustees thereof may direct.

(c) (Permanent Fund - Income Restricted) to constitute an endowment fund which shall be known as the _____ Fund, such fund to be kept invested by the College and the annual income thereof used to (state purpose - for example, faculty salaries, scholarships, etc.).

11. *Required Charitable Use.* In the event the College is not an organization described in Sections 170(c), 2055(a) and 2522(a) or (b) of the Internal Revenue Code at the time when any amount is to be irrevocably transferred

to the College, such amount shall be transferred to or for the use of an organization or organizations, selected by the College in its sole discretion, which are described in the said Sections, or retained for such use.

12. *Governing Law.* It is the intention of the Donor and the College in executing this agreement to create a Charitable Remainder Annuity Trust within the meaning of Section 664 of the Internal Revenue Code and the Regulations thereunder. All the provisions hereof shall be interpreted in a manner consistent with the regulations and rulings promulgated by the Internal Revenue Service with respect thereto. Otherwise, this instrument shall be governed by the laws of the State of _____.

13. *Trust Not Liable for Estate or Inheritance Taxes.* Regardless of the laws of any state or jurisdiction and anything to the contrary notwithstanding, the assets of the fund shall not be subject to claim for any Federal, State or other estate, inheritance or succession taxes or duties which may be assessed against the estate of the Donor or against any beneficiary hereunder and any Donor hereto agrees that Donor's will will include a provision that any and all said taxes and duties payable with respect to any assets included in the trust estate shall be paid out of such assets of the Donor's estate as are subject to administration and not out of the assets of the trust estate. Regardless of the laws of any state or jurisdiction and anything to the contrary notwithstanding, the College shall not have the power to invade the trust for the benefit of the Donor or any beneficiary or any other party for any purpose whatsoever and the only payments made hereunder shall be the annuity amounts payable to the Donor or the Donor's wife as specified in Paragraph 5.

Comment: Suggested for inclusion where a donor retains an interest for his life and provides for a survivorship interest in his wife and/or others.

14. *Prohibited Activities.* Notwithstanding any other provision hereof, payments for each taxable year shall be made at such time and in such manner as not to subject the trust to tax under §4942 of the Internal Revenue Code of 1954, as amended. Except for the payment of the annuity amount to the beneficiary, the College shall not engage in any act of self-dealing (as defined in §4941(d) of the Code); nor shall the College make any taxable expenditures (as defined in §4945(d) of the Code); nor shall the College make any investments which jeopardize the charitable purpose of the Annuity Trust (as defined in §4944 of the Code) nor retain any excess business holdings (within the meaning of §4943 of the Code).

15. *Limited Power to Amend.*

(a) Except as provided in this paragraph, this instrument may be amended, altered or modified at any time or from time to time, in writing, by the College.

(b) In the event that an amendment affects the rights or obligations of any income beneficiary hereunder, such amendment shall not become effective until the first day of the calendar month following sixty days after a copy of such amendment shall have been mailed to each such beneficiary. If such income beneficiary shall file with the College a notice in writing objecting to such amendment, and if such notice is received by the College at least five days prior to the effective date of the amendment, such amendment shall be void.

(c) Notwithstanding any other provision of this paragraph, no amendment shall be made which affects the irrevocable remainder interest granted to the College in all property held in the trust, or which otherwise affects the qualification of the trust as a charitable remainder annuity trust within the meaning of §664 of the Internal Revenue Code, as that term is defined from time to time in said Code, and the College shall have the power to amend this instrument for the purpose of preserving such qualification without reference to the limitations set forth in subparagraph (b) of this paragraph.

16. *Trustee's Powers.*

Comment: The Trustee's powers are a question of local law. The powers reproduced on page 82 may be considered, but in any event counsel should be consulted.

17. *Trustee Compensation and Bond.* The College shall not receive any compensation for services rendered under this agreement, excepting a reasonable investment management fee which shall not be a charge against the annuity amount. No bond or other security shall be required of the College.

18. *Successor Trustee.* The College may resign as Trustee and designate a new Trustee or Trustees so long as it retains the power to remove the Trustee or Trustees and to designate a new Trustee or Trustees. Any successor Trustee, whether appointed hereunder or appointed by a competent court, shall be vested with all the rights, powers, privileges, duties and obligations of the original Trustee hereunder.

19. *Effective Date.* This agreement shall be effective only upon execution by the College at its offices at _____.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto in duplicate the day, month and year hereinabove first written.

In the presence of

(Donor) (SEAL)

EXCELLENCE COLLEGE

By _____ (SEAL)

Name:

Title:

CHARITABLE REMAINDER ANNUITY TRUST

ESTABLISHED BY BEQUEST

Comment: This form is offered for adaptation by Donor's attorney when it is desired to create a testamentary charitable remainder annuity trust. It closely parallels the preceding Annuity Trust Agreement form and most of the same comments apply. Where the number of beneficiaries is more than one, this instrument should be modified as appropriate.

I give and bequeath, absolutely and in fee simple, the sum of _____ Dollars (\$ _____) to Excellence College, a corporation duly existing under the laws of the State of _____, and located in _____ in said State (hereinafter called the "College"), as trustee, IN TRUST, HOWEVER, to hold for the following purposes and subject to the following conditions:

1. *Name of Trust.* This trust shall be designated on the books and records of the College as the _____ Fund.
2. *Additional Contributions.* No additional contributions shall be made to the annuity trust after the initial contribution.
3. *Trust Investments.* The College is authorized to continue investment of the trust in the assets which are the subject of this bequest or may sell said assets and reinvest the trust assets in any manner consistent with Section 664 of the Internal Revenue Code of 1954, as amended, and the Regulations thereunder, provided that the College shall not conduct any activity and shall neither receive nor invest in any property which shall cause the trust to have any unrelated business taxable income within the meaning of Section 512. Nothing in this trust instrument shall be construed to restrict the College from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of

the trust assets.

4. *Payment to Beneficiary.* During the lifetime of _____ hereinafter called the "beneficiary"), the College shall annually pay the beneficiary _____ dollars or ____ percent of the initial net fair market value of all the property placed in trust, whichever is greater (hereinafter called the "annuity amount"). This amount shall be paid from income and, to the extent that income is insufficient, from principal. Any income of the trust for a taxable year in excess of the annuity amount shall be added to principal. Except in the case of a short taxable year, the annuity amount shall be paid during every taxable year of the trust. This amount shall be paid in four quarterly payments on or after March 31, June 30, September 30 and December 31 of each taxable year of the trust. If necessary, a fifth payment will be made on or before the date by which the College is required to file the Federal income tax return for the fund to bring the total payment to the actual amount to which the beneficiary or beneficiaries were entitled for that year. However, the obligation of the College to make payments to the beneficiary hereunder shall terminate with the regular quarterly payment next preceding the beneficiary's death.

The obligation to pay the annuity amount shall commence with the date of my death, but payment of the annuity amount may be deferred from the date of my death to the end of the taxable year in which occurs the complete funding of the trust. Payment of the annuity amount so deferred, plus interest computed at six percent (6%) a year, compounded annually, shall be made within a reasonable time after the occurrence of said event.

5. *Proration for Short Taxable Year.* In determining the annuity amount, the College shall prorate the same on a daily basis for a short taxable year and for the period during which the beneficiary is living in the year of his (her) death.

6. *Taxable Year.* The taxable year of this trust shall be the year ending December 31.

7. *Incorrect Valuation.* If the initial net fair market value of the trust assets is incorrectly determined by the trustee, then within a reasonable period after the final determination of the correct value the trustee shall pay to the beneficiary in the case of an undervaluation, or shall receive from the beneficiary in the case of an overvaluation, an amount equal to the difference between the annuity amount properly payable and the annuity amount actually paid.

8. *Definition of Income.* For the purposes of this trust, the term "income" has the same meaning as it does under Section 643(b) of the Internal Revenue Code and the Regulations thereunder. The term "income" shall mean net income after payment of any expenses of administering the trust. Such expenses shall include reasonable investment management, custodial and like fees, which shall not be a charge against the annuity amount. The following shall be treated as principal and not as "income:"

(a) Gains and losses from the sale, exchange, redemption or other disposition of investments;

(b) Stock dividends, stock splits or similar distributions;

(c) Capital gain dividends of regulated investment companies (mutual funds);

(d) Liquidating distributions

If interest-bearing securities are acquired at a premium over par or other stated value, the premium shall be amortized from income so as to restore the premium to principal.

9. *Use After Death of Beneficiary.* Upon the demise of the beneficiary, the trust assets shall be irrevocably transferred to Excellence College(Add (a), (b) or (c) as appropriate).

(a) (Principal and Income Unrestricted) to be used in such manner as the Trustees thereof may direct.

(b) (Permanent Fund - Income Unrestricted) to constitute an endowment fund which shall continue to be known as the _____ Fund, such fund to be kept invested by Excellence College and the annual income thereof used in such manner as the Trustees thereof may direct.

(c) (Permanent Fund - Income Restricted) to constitute an endowment fund which shall continue to be known as the _____ Fund, such fund to be kept invested by Excellence College and the annual income thereof used to (state purpose - for example, faculty salaries, scholarships.)

10. *Required Charitable Use.* In the event the College is not an organization described in Sections 170(c) and 2055(a) of the Internal Revenue Code at the time when any principal or income of the trust is to be distributed to the Excellence College, such amount shall be transferred to or for the use of an organization or organizations, selected by the College in its sole discretion, which are described in the said Sections 170(c) and 2055(a), or retained for such use.

11. *Governing Law.* It is my intention to create a charitable remainder annuity trust within the meaning of Section 664 of the Internal Revenue Code and the Regulations thereunder. All the provisions hereof shall be interpreted in a manner consistent with the regulations and rulings promulgated by the Internal Revenue Service with respect thereto. Otherwise, this trust shall be governed by the laws of the State of _____.

12. *No Invasion for Tax or Other Use.* Regardless of the laws of any state or jurisdiction and anything to the contrary notwithstanding, any Federal, state or other estate, inheritance or succession taxes or duties which may be assessed against my estate or against any beneficiary hereunder shall be paid out of other assets of my estate subject to administration and not out of the assets

of the trust estate. Any and all said taxes and duties payable with respect to any assets included in the trust estate shall be paid out of such assets of the trust estate. Regardless of the laws of any state or jurisdiction and anything to the contrary notwithstanding, except for payment of the required annuity amount hereunder, the College shall not have the power to invade the trust for the benefit of the beneficiary or any person other than an organization described in Section 170(c) of the Code.

13. *Prohibited Activities.* Except for the payment of the annuity amount to the beneficiary, the College is prohibited from engaging in any act of self-dealing as defined in Section 4941(d), of the Internal Revenue Code of 1954, as amended, from retaining any excess business holdings as defined in Code Section 4943(c) which would subject the trust to tax under Code Section 4943, from making any investments which would subject the trust to tax under Code Section 4944 and from making any taxable expenditures as defined in Code Section 4945(d). Notwithstanding any other provision hereof, the College shall make distributions for each taxable year at such time and in such manner as not to subject the trust to tax under Code Section 4942.

14. *Limited Power to Amend.*

(a) Except as provided in this Paragraph, this instrument may be amended, altered or modified at any time or from time to time, in writing, by the College.

(b) In the event that an amendment affects the rights or obligations of any income beneficiary hereunder, such amendment shall not become effective until the first day of the calendar month following sixty days after a copy of such amendment shall have been mailed to each such beneficiary. If such income beneficiary shall file with the College a notice in writing objecting to such amendment, and if such notice is received by the College at least five days prior to the effective date of the amendment, such amendment shall be void.

(c) Notwithstanding any other provision of this Paragraph, no amendment shall be made which affects the irrevocable remainder interest granted to Excellence College in all property held in the fund, or which otherwise affects the qualification of the fund as a Charitable Remainder Annuity Trust within the meaning of Section 664 of the Internal Revenue Code, as that term is defined from time to time in said Code, and the College shall have the power to amend this instrument for the purpose of preserving such qualification without reference to the limitations set forth in subparagraph (b) of this Paragraph.

15. *Trustee's Compensation and Bond.* The College shall not receive any compensation for services rendered under this instrument excepting the investment management, custodial and like fees referred to in Paragraph 8. No bond or other security shall be required of the College or of any successor trustee.

16. *Trustee's Powers.*

Comment: The Trustee's powers are a question of local law. The powers reproduced on page 82 may be considered, but in any event counsel should be consulted.

17. *Prohibition Against Alienation.* The interests of the beneficiary in principal or income shall not in any way be voluntarily or involuntarily alienated or encumbered.

18. *Successor Trustee.* The College may resign as trustee and designate a new Trustee or Trustees so long as it retains the power to remove the Trustee or Trustees and to designate a new Trustee or Trustees. Any successor Trustee, whether appointed hereunder or appointed by a competent court, shall be vested with all the rights, powers, privileges, duties and obligations of the original Trustee hereunder.

ANNUITY trust
Deduction calculation

REMAINDER INTEREST COMPUTATION FOR ONE-LIFE ANNUITY TRUST

Donor: HELEN G. THROPIST Gift Amount \$ 20,000 Gift Date 5/18/72
 Beneficiary (Name, sex, age): HELEN G. THROPIST - FEMALE - 70
 Amount of annual payout: \$ 1200 Payment schedule SEMI-ANNUAL

1. AMOUNT OF ANNUAL PAYMENT \$ 1200
2. ANNUITY FACTOR FOR F AGE 70 (Table A(1) or A(2))* 7.9234
3. UNADJUSTED PRESENT VALUE OF ANNUITY (Line 1 x Line 2) \$ 9,508.08
4. ADJUSTMENT FACTOR IF PAYMENT IS AT END OF PERIOD** 1.0148

Annual Payments	1.0000
Semi-annual Payments	1.0148
Quarterly Payments	1.0222
Monthly Payments	1.0272
5. ADJUSTED PRESENT VALUE OF ANNUITY (Line 3 x Line 4) \$ 9,648.72
6. AMOUNT TRANSFERRED TO TRUST \$ 20,000.00
7. PRESENT VALUE REMAINDER INTEREST (Line 6 minus Line 5) \$ 10,351.28

* See single-life annuity trust tables, page 223 ff.

** Adjustment factor if payment is at beginning of period

Annual Payments	1.0600
Semi-Annual Payments	1.0448
Quarterly Payments	1.0372
Monthly Payments	1.0322

REMAINDER INTEREST COMPUTATION FOR ONE-LIFE ANNUITY TRUST

Donor: _____ Gift Amount \$ _____ Gift Date _____

Beneficiary (Name, sex, age): _____

Amount of annual payout: \$ _____ Payment schedule _____

1. AMOUNT OF ANNUAL PAYMENT \$ _____

2. ANNUITY FACTOR FOR _____ AGE _____ (Table A(1) or A(2))* _____

3. UNADJUSTED PRESENT VALUE OF ANNUITY (Line 1 x Line 2) \$ _____

4. ADJUSTMENT FACTOR IF PAYMENT IS AT END OF PERIOD** _____

Annual Payments	1.0000
Semi-annual Payments	1.0148
Quarterly Payments	1.0222
Monthly Payments	1.0272

5. ADJUSTED PRESENT VALUE OF ANNUITY (Line 3 x Line 4) \$ _____

6. AMOUNT TRANSFERRED TO TRUST \$ _____

7. PRESENT VALUE REMAINDER INTEREST (Line 6 minus Line 5) \$ _____

* See single-life annuity trust tables, page 223 *ff.*

** Adjustment factor if payment is at beginning of period

Annual Payments	1.0600
Semi-Annual Payments	1.0448
Quarterly Payments	1.0372
Monthly Payments	1.0322

REMAINDER INTEREST COMPUTATION FOR TWO-LIFE ANNUITY TRUST

Donor: PHIL N. THROPIST Gift Amount \$ 20,000 Gift Date 5/18/72
 1st Beneficiary (Name, sex, age): PHIL N. THROPIST - MALE - 75
 2nd Beneficiary (Name, sex, age): HELEN G. THROPIST - FEMALE - 70
 Amount of annual payout: \$ 1400 Payment schedule: QUARTERLY

1. AGE AND SEX OF OLDER BENEFICIARY	<u>M / 75</u>
2. AGE AND SEX OF YOUNGER BENEFICIARY	<u>F / 70</u>
3. DIFFERENCE IN AGES	<u>5</u>
4. REMAINDER FACTOR (Table LT6, Pub. 723 A)	<u>.46562</u>
5. INCOME FACTOR (\$1.00 minus Line 4)	<u>.53438</u>
6. ANNUITY FACTOR (Line 5 divided by .06)	<u>8.9063</u>
7. AMOUNT OF ANNUAL PAYMENT	\$ <u>1400</u>
8. UNADJUSTED PRESENT VALUE OF ANNUITY (Line 6 x Line 7)	\$ <u>12,468.82</u>
9. ADJUSTMENT FACTOR IF PAYMENT IS AT END OF PERIOD**	<u>1.0222</u>
Annual Payments	1.0000
Semi-annual Payments	1.0148
Quarterly Payments	1.0222 ✓
Monthly Payments	1.0272
10. ADJUSTED PRESENT VALUE OF ANNUITY (Line 8 x Line 9)	\$ <u>12,745.63</u>
11. AMOUNT TRANSFERRED TO TRUST	\$ <u>20,000</u>
12. PRESENT VALUE REMAINDER INTEREST (Line 11 minus Line 10)	\$ <u>7,254.37</u>

** Adjustment factor if payment is at beginning of period

Annual Payments	1.0600
Semi-annual Payments	1.0448
Quarterly Payments	1.0372
Monthly Payments	1.0322

REMAINDER INTEREST COMPUTATION FOR TWO-LIFE ANNUITY TRUST

Donor: _____ Gift Amount \$ _____ Gift Date _____

1st Beneficiary (Name, sex, age): _____

2nd Beneficiary (Name, sex, age): _____

Amount of annual payout: \$ _____ Payment schedule: _____

1. AGE AND SEX OF OLDER BENEFICIARY _____
2. AGE AND SEX OF YOUNGER BENEFICIARY _____
3. DIFFERENCE IN AGES _____
4. REMAINDER FACTOR (Table LT6, Pub. 723 A) _____
5. INCOME FACTOR (\$1.00 minus Line 4) _____
6. ANNUITY FACTOR (Line 5 divided by .06) _____
7. AMOUNT OF ANNUAL PAYMENT \$ _____
8. UNADJUSTED PRESENT VALUE OF ANNUITY (Line 6 x Line 7) \$ _____
9. ADJUSTMENT FACTOR IF PAYMENT IS AT END OF PERIOD** _____

Annual Payments	1.0000
Semi-annual Payments	1.0148
Quarterly Payments	1.0222
Monthly Payments	1.0272

10. ADJUSTED PRESENT VALUE OF ANNUITY (Line 8 x Line 9) \$ _____
11. AMOUNT TRANSFERRED TO TRUST \$ _____
12. PRESENT VALUE REMAINDER INTEREST (Line 11 minus Line 10) \$ _____

** Adjustment factor if payment is at beginning of period

Annual Payments	1.0600
Semi-annual Payments	1.0448
Quarterly Payments	1.0372
Monthly Payments	1.0322

ANNUITY TRUST

Tax Reports

Form **1041-B**Department of the Treasury
Internal Revenue Service**Charitable Remainder Trust**Under section 664 of the Internal Revenue Code
For the calendar year 1977 or fiscal year

beginning 1977, and ending 19

1977

Name of trust

MOOSEWAT CHARITABLE REMAINDER ANNUITY TRUST

Employer identification number

34-5678901

Name of fiduciary

EXCELLENCE COLLEGE

Date trust created

4/1/71

Address of fiduciary (Number and street)

Check whether:

☐ Testamentary☒ Inter vivos

City or town, State, and ZIP code

Part I**Ordinary Income**

1	Dividends	7464.50
2	Interest	561.09
3	Income from partnerships and other fiduciaries	
4	Gross rents and royalties	
5	Gross profit (loss) from trade or business	
6	Ordinary gains and (losses) (Attach Form 4797)	
7	Other income (State nature of income)	
8	Total ordinary income (lines 1 to 7 inclusive)	8025.59

Deductions Allocable to Ordinary Income

9	Interest	
10	Taxes	
11	Depreciation and depletion	
12	Other deductions (itemize in attached statement)	
13	Total deductions (lines 9 to 12 inclusive)	
14	Ordinary income less deductions (line 8 less line 13). Enter here and on line 22, Part II	8025.59

Capital Gains (Losses) and Allocable Deductions

15	Total short-term capital gain (loss) from Schedule D (Form 1041) line 3	
16	Deductions allocable to short-term capital gains	
17	Balance (line 15 less line 16). Enter here and on Part II, line 22	
18	Total long-term capital gain (loss) from Schedule D (Form 1041) line 11	(15630.33)
19	Deductions allocable to long-term capital gains	
20	Balance (line 18 less line 19). Enter here and on Part II, line 22	(15630.33)

Part II**Accumulation Schedule**

	Accumulations	Ordinary income	Capital gains and (losses)		Nontaxable income
			Net short-term	Net long-term	
21	Undistributed from prior years	1238.92	-	129223.85	-
22	Current year (before distributions)	8025.59	-	(15630.33)	-
23	Total (lines 21 and 22)	9264.51	-	113593.52	-
24	Undistributed at end of year	3384.51	-	113593.52	-

Part III**Current Distributions Schedule**

	Name of recipient	Social security number	Ordinary income	Capital gains		Nontaxable income and corpus
				Short-term	Long-term	
25	TILLIE MOOSEWAT	031-23-4567	5,280.00			
26						
27						

Part IV

28 Did the trust have any unrelated business taxable income? ☐ Yes ☒ No
If "Yes," attach Form 1041 as a supplemental schedule and enter tax due or overpayment

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than fiduciary) is based on all information of which the preparer has any knowledge.

Adam Smith
Signature of fiduciary or officer representing fiduciary

DIRECTOR OF FINANCE**4/10/78**
Date

Signature of paid preparer (other than fiduciary) and identifying number (See instruction 9)

Paid preparer's address (or employer's name, address, and identifying number)

Balance Sheet

	Annuity trust and unitrust End of the taxable year Book value		Unitrust only Fair market value Valuation date ▶▶
Assets			
1 Cash		2,544.72	
2 Listed securities		183,399.64	
3 Trade notes and accounts receivable			
(a) Less allowance for bad debts			
4 Inventories			
5 Government obligations:			
(a) U.S. and instrumentalities	1,045.18		
(b) State, subdivisions thereof, etc.		1,045.18	
6 Other current assets (Attach detailed schedule)			
7 Mortgage and real estate loans			
8 Other investments (Attach detailed schedule)			
9 Buildings and other fixed depreciable assets			
(a) Less accumulated depreciation			
10 Depletable assets			
(a) Less accumulated depletion			
11 Land (net of any amortization)			
12 Other assets (Attach detailed schedule)			
13 Total assets		186,989.54	
Liabilities			
14 Accounts payable			
15 Mortgages and notes payable in less than 1 year			
16 Other current liabilities (Attach schedule)			
17 Mortgages and notes payable in 1 year or more			
18 Other liabilities (Attach schedule)			
19 Total liabilities			
Net Worth			
20 Trust principal or corpus	183,605.03		
21 Undistributed income and profits	3,384.51		
22 Total net worth		186,989.54	
23 Total liabilities and net worth		186,989.54	

1 If annuity trust, state amount of annual annuity for each recipient, and initial net fair market value of property placed in trust. **TILLIE MOOSMIST; \$886.00**
ORIGINAL MARKET VALUE: 95,986.80

2 If unitrust, state percentage of annual distribution(s) for each recipient.

3 If unitrust, was there any change in the method of determining fair market value of the assets? ☐ Yes ☐ No
 If "Yes," explain.

4 If unitrust, were additional contributions received during the taxable year? ☐ Yes ☐ No
 If "Yes," list assets and date received.

5 If unitrust, was the amount required to be distributed to the recipient(s) during this taxable year more or less than the fixed percentage under the exception permitted by section 664(d)(3) of the Code? ☐ Yes ☐ No
 If "Yes," enter the income for the year (as determined under section 643(b) and related regulations).

Also, if the unitrust is required to make up past deficiencies, enter the:

(a) Prior years total income (as determined under section 643(b) and related regulations) ▶; and,
 (b) Prior years total distributions ▶

**Return of Nonexempt Charitable or Split-Interest
Trust Treated as a Private Foundation**
Under Section 4947(a) of the Internal Revenue Code

1977

For the calendar year 1977, or other taxable year beginning 1977, and ending 19

Name of trust in full

TILLIE MOOSEMEYER CHARITABLE REMAINDER ANNUITY TRUST

Employer identification number of trust

34-5678901

Name of fiduciary

EXCELLENCE COLLEGE

Fair market value of assets at end of year

206,820.35

Address of fiduciary (Number and street)

Check type of organization:

☐ 4947(a)(1) ☒ 4947(a)(2)

City or town, State, and ZIP code

If the trust is in a 60-month termination under section 507(b)(1)(B) check here ☐

Note: Section 4947(a)(1) trusts must complete all Parts of the return. Section 4947(a)(2) trusts see instructions.

Date the trust was created 4/1/71

4947(a)(1) trusts filing this form in lieu of Form 1041 check here, see General instruction A ☐

Part I Analysis of Receipts and Expenditures
(See instructions for Part I)

	(A) Receipts and expenditures per books	(B) Computation of Net Investment Income	(C) Computation of Adjusted Net Income	(D) Disbursements for Charitable Purpose
Receipts				
1 Gross contributions, gifts, grants, etc. (see instructions) . . .				
2 Contributions from split-interest trusts (see instructions) . . .				
3 Interest	<u>561.09</u>			
4 Dividends	<u>7464.50</u>			
5 Gross rents and royalties				
6 Net gain or (loss) from sale of assets not in line 10	<u>(15630.33)</u>			
7 Capital gain net income (see instructions)				
8 Net short-term capital gain (see instructions)				
9 Income modifications (see instructions)				
10 Gross profit from any business activities: (Gross receipts \$ less cost of sales \$ see instructions)				
11 Other income (attach schedule)	<u>(7604.74)</u>			
12 Total—add lines 1 through 11				
Expenditures				
13 Compensation of officers, etc. (see instructions)				
14 Other salaries and wages				
15 Other employee benefits				
16 Investment, legal and other professional services				
17 Interest				
18 Taxes (see instructions)				
19 Depreciation, amortization, and depletion (see instructions)				
20 Rent				
21 Other expenses (attach schedule)				
22 Contributions, gifts, grants (see instructions)				
23 Total—add lines 13 through 22	<u>(7604.74)</u>			
24 Line 12 less line 23: (a) Excess of receipts over expenditures				
(b) Net investment income (if negative, enter 0)				
(c) Adjusted net income (if negative, enter 0)				

Part II Excise Tax On Investment Income

1 Enter 4% of line 24(b) (see instructions)	
2 Computation under section 511 (see instructions)	
3 Add lines 1 and 2	
4 Tax under Subtitle A (see instructions)	
5 Excise tax under 4940(b)—line 3 minus line 4 (but not less than zero—see instructions)	
6 Tax paid with application for extension of time to file (Form 2758)	
7 Tax Due—line 5 less line 6 Pay in full with return. Make check or money order payable to Internal Revenue Service ▶ (Write Employer identification number on check or money order)	
8 Overpayment—line 6 less line 5	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Sign here

Adam Smith
Signature of officer or trustee

Date

▶ Paid preparer's signature and identifying number (see instructions)

DIRECTOR OF FINANCE
Title

▶ Paid preparer's address (or employer's name, address and identifying number)

Part III Questionnaire

- 1 (a) If a 4947(a)(1) trust with at least \$5,000 in assets at any time during the year, did you file Form 990-AR for the taxable year as required by Section 6056? (See General Instruction G) Yes No
- (b) If (a) is "Yes," have you furnished a copy of Form 990-AR (or equivalent report) to the Attorney General (or his/her designate) of each State as required by general instruction G? Yes No
- If "No," attach explanation. If "Yes," list here.
- 2 If the trust is the type described in section 4947(a)(2), do:
- (a) The provisions of section 4947(a)(2)(A), (B) or (C) apply? (See Special Rules for Split-interest Trusts on page 2 of instructions) X
- If "Yes," do not apply the questions in Part V to any portion of the trust within the scope of such provisions.
- (b) (1) the provisions of section 4947(b)(3)(A) apply? (See Special Rules for Split-interest Trusts on page 2 of instructions) X
- (2) the provisions of section 4947(b)(3)(B) apply? (See Special Rules for Split-interest Trusts on page 2 of instructions) X
- If you answered "Yes" to question (b)(1) or (2), do not answer questions 3 and 4 of Part V.
- 3 At the time of filing this return for 1977 does the organization satisfy the requirements of section 508(e)? (See General Instruction I) by:
- (a) Language in the governing instrument (original or as amended)? X
- (b) State legislation that effectively amends the governing instrument and the governing instrument contains no mandatory directions which are in conflict with such State legislation?

Part IV Balance Sheets

	Beginning of Taxable Year		End of Taxable Year	
	(A) Amount	(B) Total	(C) Amount	(D) Total
Assets				
1 Cash:				
(a) Savings and interest-bearing accounts				
(b) Other	1100.45	1100.43	2544.72	2544.72
2 Accounts receivable net				
3 Notes receivable net (attach schedule)				
4 Inventories				
5 Gov't obligations:				
(a) U.S. and instrumentalities			1045.18	
(b) State, subdivisions thereof, etc.				1045.18
6 Investments in nongovernment bonds, etc. (attach schedule)				38,000.00
7 Investments in corporate stocks (attach schedule)		199,373.29		145,369.64
8 Mortgage loans (number of loans)				
9 Other investments (attach schedule)				
10 Depreciable (depletable) assets (attach schedule):				
(a) Held for investment purposes				
(b) Less accumulated depreciation				
(c) Held for charitable purposes				
(d) Less accumulated depreciation				
11 Land:				
(a) Held for investment purposes				
(b) Held for charitable purposes				
12 Other assets (attach schedule)				
13 Total assets		200,474.28		186,989.54
Liabilities				
14 Accounts payable				
15 Contributions, gifts, grants, etc., payable				
16 Mortgages and notes payable (attach schedule)				
17 Other liabilities (attach schedule)				
18 Total liabilities				
Net Worth (Fund Balances)				
19 Principal Fund		199,235.36		183,605.03
20 Income Fund		1238.92		3384.51
21 Total Net Worth (Fund Balances)		200,474.28		186,989.54
22 Total liabilities and Net Worth (line 18 plus line 21)		200,474.28		186,989.54

Part V Statements with Respect to Certain Activities

File Form 4720 if question 1(b), 2(b), or 5(b) is answered "No" or question 1(c), 3(b), or 4(a) or (b) is answered "Yes."

1 Self-dealing (section 4941):

(a) Have you engaged in any of the following acts during the year either directly or indirectly, with one or more disqualified persons? (See instruction B, Part V "Definitions")—

- | | | |
|---|-----|----|
| (1) Sale, exchange or leasing of property | Yes | No |
| (2) Borrowing or lending of money or other extension of credit | | X |
| (3) Furnishing of goods, services, or facilities | | X |
| (4) Payment of compensation (or payment or reimbursement of expenses) | | X |
| (5) Transfer to, or use by or for the benefit of, a disqualified person of any part of your income or assets | | X |
| (6) Agreement to make any payment of money, or other property, to a government official (as defined in section 4945(c)) other than an agreement to make a grant to or employ such individual for any period after the termination of his or her government service if such individual is terminating his or her government service within a 90-day period | | X |

(b) If any of questions (a)(1) through (a)(6) is answered "Yes," were all of such acts in which you engaged excepted acts described in instruction C, Part V?

(c) Have you, in a prior year, engaged in any of the acts described in (a) above that were acts that resulted in acts of self-dealing in years beginning after December 31, 1969, because they were not excepted acts described in instruction C, Part V of the instructions, and that were not corrected before the first day of your taxable year beginning in 1977?

2 Taxes on failure to distribute income (section 4942) (not applicable to 4947(a)(2) trusts, and operating foundations as defined in 4942(j)(3)):(a) Did you at the end of taxable year 1977 have any undistributed income for taxable year(s) beginning before 1977?
If "Yes," insert years

(b) If "Yes," to (a) above, are you applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) with respect to the undistributed income for ALL such years?

(c) If the provisions of section 4942(a)(2) are being applied to ANY of the years listed in (a) above, list such years here and see General Instruction A for Part V

3 Taxes on excess business holdings (section 4943):

(a) Did you hold more than a two percent direct or indirect interest in any business enterprise (see instruction B, Part V "Definitions") at any time during the year?

(b) If "Yes," have you purchased or have disqualified persons purchased stock in a business enterprise since May 26, 1969, which resulted in excess business holdings (direct or indirect) which are subject to tax under section 4943?

4 Taxes on investments which jeopardize charitable purpose (section 4944):

(a) Did you invest during the year any amount in such manner as to jeopardize the carrying out of any of your charitable purposes?

(b) Did you invest, in a prior year (but after December 31, 1969), any amount in such a manner as to jeopardize the carrying out of any of your charitable purposes and fail to remove such investment from jeopardy before the first day of your taxable year beginning in 1977?

5 Taxes on taxable expenditures (section 4945):

(a) During the year did you pay, or incur a liability to pay, for any of the following?—

- | | | |
|--|-----|----|
| (1) To carry on propaganda, or otherwise attempt to influence legislation by attempting to affect the opinion of the general public or any segment thereof or by communicating with any member or employee of a legislative body, or by communicating with any other government official or employee who may participate in the formulation of legislation | Yes | No |
| (2) To influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive | | X |
| (3) As a grant to an individual for travel, study, or other similar purposes by such individual | | X |
| (4) As a grant to an organization other than a charitable, etc., organization described in paragraph (1), (2) or (3) of section 509(a) of the Code | | X |
| (5) For any purpose other than religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals | | X |

(b) If any of questions (a)(1) through (a)(5) is answered "Yes," were all of such transactions excepted transactions described in instruction F, Part V?

(c) Did you apply exception (13) of instruction F to question (a)(4) above?

If "Yes," attach the statement required for such exception as provided in the instructions under exception (13).

Part VI Capital Gains and Losses for Tax on Investment Income

a. Kind of property. Indicate security, real estate or other (specify)	b. Description (Examples: 100 sh. of "Z" Co., 2 story brick, etc.)	c. How acquired P—Purchase D—Donation	d. Date acquired (mo., day, yr.)	e. Date sold (mo., day, yr.)
1				

f. Gross sales price	g. Depreciation allowed (or allowable)	h. Cost or other basis and expense of sale	i. Gain or (loss) (f plus g less h)

Complete only for assets showing gain in column i and owned by the foundation on 12/31/69

j. F.M.V. as of 12/31/69	k. Adjusted basis as of 12/31/69	l. Excess of col. j over col. k, if any	m. Enter losses from col. i, and gains (excess of col. i gain over col. l, but not less than zero)

2 Capital gain net income/(Net capital loss). (If gain, also enter on line 7, Part I).
(If loss, enter -0- on line 7, Part I).

3 Net short-term capital gain (loss) as defined in section 1222(5) and (6)

Part VII Minimum Investment Return for 1977

1 Fair market value of assets not used (or held for use) directly in carrying out charitable, etc., purposes:

(a) Monthly average of securities at fair market value

(b) Monthly average of cash balances

(c) Fair market value of all other assets (see instructions)

(d) Total (add lines (a), (b), and (c))

2 Acquisition indebtedness applicable to line 1 assets

3 Line 1(d) less line 2

4 Amount deemed held for charitable activities—enter 1½% of line 3 (for greater amount, see instructions)

5 Line 3 less line 4

6 All organizations enter 5% of line 5

Part VIII Computation of Distributable Amount for 1977 (See instructions)

1 Adjusted net income from line 24(c), Part I

2 Minimum investment return from line 6, Part VII

3 Enter the higher of line 1 or line 2

4 Enter sum of: (a) Tax on investment income for 1977 from Part II

(b) Income tax for 1977

5 Distributable amount (line 3 less line 4)

6 Adjustments to distributable amount (see instructions)

7 Distributable amount as adjusted (line 5 plus or minus line 6)—also enter on line 1, Part X

Part IX Qualifying Distributions in 1977 (See instructions)

1 Amounts paid (including administrative expenses) to accomplish charitable, etc., purposes:

(a) Expenses, contributions, gifts, etc.—total from line 23 column (D), Part I

(b) Program related investments (see instructions)

2 Amounts paid to acquire assets used (or held for use) directly in carrying out charitable, etc., purposes

3 Amounts set aside for specific projects which are for charitable, etc., purposes

4 Total qualifying distributions made in 1977 (add lines 1, 2, and 3)

Part X Computation of Undistributed Income
(See instructions)

	(a) Corpus	(b) Years Prior to 1976	(c) 1976	(d) 1977
1 Distributable amount for 1977 from Part VIII				
2 Undistributed income, if any, as of the end of 1976:				
(a) Enter amount for 1976				
(b) Total for prior years;				
3 Excess distributions carryover, if any, to 1977:				
(a) From 1972				
(b) From 1973				
(c) From 1974				
(d) From 1975				
(e) From 1976				
(f) Total of 3(a) through (e)				
4 Qualifying distributions for 1977 ()				
(a) Applied to 1976 (but not in excess of 2(a))			()	
(b) Applied to undistributed income of prior years (Election required)		()		
(c) Treated as distributions out of corpus (Election required)				
(d) Applied to 1977 distributable amount				()
(e) Remaining amount distributed out of corpus				
5 Excess distributions carryover applied to 1977	()			()
(If an amount appears in the 1977 column the same amount must be shown in the corpus column of line 5)				
6 Enter the net total of each column as indicated below:				
(a) Corpus. Lines 3(f), 4(c) and 4(e) less line 5				
(b) Prior years undistributed income. Line 2(b) less line 4(b). This amount is taxable—File Form 4720				
(c) Undistributed income for 1976. Line 2(a) less line 4(a). This amount is taxable—File Form 4720				
(d) Undistributed income for 1977. Line 1 less lines 4(d) and 5. Amount must be distributed in 1978				
7 Amounts treated as distributions out of corpus to satisfy requirements imposed by Code Sections 170(b)(1)(D) or 4942(g)(3) (pass through distributions—see instructions)	()			
8 Excess distributions carryover from 1972 not applied on line 5 (see instructions)	()			
9 Excess distributions carried forward. (Line 6(a) less lines 7 and 8)				
10 Analysis of line 9:				
(a) Excess from 1973				
(b) Excess from 1974				
(c) Excess from 1975				
(d) Excess from 1976				
(e) Excess from 1977				

**SCHEDULE K-1
(Form 1041)**

Department of the Treasury
Internal Revenue Service

Beneficiary's Share of Income, Deductions, Credits, etc.—1977

for the calendar year 1977, or fiscal year

beginning 1977, ending 19
(Complete for each beneficiary—see instructions on back of Copy C and the instructions for Form 1041)

Copy A

File with
Form 1041

(a) Allocable share item	(b) Amount	(c) Form 1040 filers enter column (b) amount as indicated below
1 Dividends (amount before exclusion)	5318.91	Schedule B, Part II, line 3
2 Short-term capital gain		Schedule D, line 2
3 Long-term capital gain		Schedule D, line 9
4 a Other taxable income (Itemize)		
b		
c Total of lines 4a and 4b		
d Depreciation and depletion (See Sch. A (1041) instrs.)		
e Amortization deductions (Itemize) (See 1041 instr. 16.)		
f		
g Total of lines 4d, 4e and 4f		
h Line 4c minus line 4g		Schedule E, Part III
5 Foreign taxes		Form 1116 or Schedule A (Form 1040), line 16
6 a Other (Itemize) Interest	541.09	Enter on applicable line of appropriate tax form
b		Enter on applicable line of appropriate tax form
7 Long-term capital gain		See Form 4625 Instructions
8 Depreciation (real property)		Form 4625, line 1(b) (2)
9 Depletion		Form 4625, line 1(j)
10 a Other (Itemize)		Enter on applicable line of Form 4625
b		Enter on applicable line of Form 4625

Name, identifying number, and address (including ZIP code) of beneficiary
TILLIE MOOREMINT 031-23-4567

Name and employer identification number of estate or trust and name and address (including ZIP code) of fiduciary
MOOREMINT CHARITABLE ANNUITY TRUST 34-5678
FIDUCIARY COLLEGE

Instructions for Fiduciary

Complete Schedule K-1 (Form 1041) for each beneficiary and file Copy A with Form 1041. You may substitute your own form, or the information notice sent to the beneficiary, if it contains the information required by this form. You may (but are not required to) give Copy B to the beneficiary. You may keep Copy C for your records. If you need more space, attach additional sheets of the same size. For "Privacy Act" notice, see the Instructions for Form 1040.

If no special computations are required, use the following instructions to compute the beneficiary's income from the estate or trust. In other cases, see sections 652, 662, and 663 of the Internal Revenue Code and related regulations. For example, different computations are required if capital gains and losses or a charitable deduction are involved. In addition, the terms of the governing instrument or local law may require different computations. The instructions for Form 1041 contain numerous references to amounts to be entered on the various lines of Schedule K-1 (Form 1041). For example, the instructions for Form 1041, Schedule A, Depreciation, includes the apportionment rule for depreciation and a reference to Schedule K-1 (Form 1041) line 4d for the depreciation which is deductible by the beneficiary rather than the fiduciary.

Income.—The beneficiary must include in gross income the smaller of (1) the amounts paid, credited or required to be distributed, or (2) the proportionate share of distributable net income, reduced in either case by the share of distributable tax-exempt income less the allocable expense not allowable as a deduction on page 1 of Form 1041.

Character of Income.—The beneficiary's income shall be deemed to consist of the same proportion of each class of items entering into the computation of distributable net income as the total of each class bears to the distributable net income.

Allocation of Deductions.—Allocate the items of deduction which enter into the computation of distributable net income among the items of distributable net income as follows. Deductions attributable to one class of income are to be deducted from that income. Deductions not attributable to one class of income may be deducted from any class, except that a reasonable proportion must be deducted from tax-exempt income. Except for deductions allocable to tax-exempt income, excess deductions allocable to one class of income may be allocated to other classes. None of the deductions in the computa-

tion of distributable net income may be allocated to items attributable to corpus or to income not included in distributable net income. Except for the final year (see General Instruction N) and for depreciation or depletion allocations in excess of income (see Rev. Rul. 74-530), no negative amounts may be shown for any class of income since as a general rule the beneficiary may not claim losses or deductions of the estate or trust.

Gifts and Bequests.—Do not include in the beneficiary's income gifts or bequests of a specific sum of money or of specific property under the terms of the governing instrument which are paid or credited in three installments or less. Amounts which can be paid or credited only from income of the estate or trust do not qualify as a gift or bequest of a specific sum of money.

Past Years.—Do not include in the beneficiary's income amounts deducted in Form 1041 for an earlier year which were credited or required to be distributed in that earlier year.

Identifying Number.—The fiduciary may be subject to a penalty for each omission of a beneficiary's identifying number unless the fiduciary establishes a reasonable cause for not providing it.

Charitable Gift Annuity

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DEFINITION OF THE CHARITABLE GIFT ANNUITY

The charitable gift annuity is a contract between a donor and a charitable organization under which, in consideration of the donor's irrevocable gift of money or property to the charity, the charity promises to pay a fixed dollar amount annually to one or two annuitants for life. For income tax purposes, a transfer for an annuity is considered to be part gift and part purchase of the annuity. The fixed dollar amount to be paid to the annuitant(s) is determined by the age(s) of the annuitant(s) from an actuarial rate table and remains constant for life. Most charitable organizations utilize the rate tables published by the Committee on Gift Annuities of New York City (see below for address).

The charitable gift annuity should not be confused with the charitable remainder annuity trust from which it differs in a number of ways:

1. If the annuity trust is depleted (because of poor investment or excessively high payout), the trust terminates and the beneficiary receives no further payments. The gift annuity, on the other hand, is a general obligation of the charitable organization and is backed by the full assets of that organization. Several states regulate annuities and require maintenance of reserves.
2. The annual payment from the annuity trust is determined without regard to the beneficiary's age, whereas the amount of the gift annuity annual payment depends on the annuitant's age at the time the annuity is established.
3. In the case of the charitable gift annuity, a portion of every payment is considered to be non-taxable return of principal. With the annuity trust, payments may be taxable, in whole or in part, as ordinary income, capital

gain distribution or non-taxable return of principal, depending upon the nature of the trust's investments and distributions.

4. If an annuity trust is funded with long-term appreciated property, neither the donor nor the trust sustains any capital gains tax liability when the gift is made and if and when the trust sells the donated property. If a charitable gift annuity is purchased with appreciated property, the donor does incur a capital gains tax liability which, however, may be prorated over the life expectancy of the annuitant(s).

The deferred gift annuity is a variation of the charitable gift annuity detailed in Revenue Ruling 72-438. This plan retains the same features as the regular charitable gift annuity except that the starting date for payment of the annual amount to the annuitant is deferred for a period of at least one year after the date of the gift, and usually for a much longer period. The annuity rate is determined at the age(s) of the annuitant(s) as of the date the annuity payments are to start. Furthermore, the amount of the annuity payments and the donor's tax deduction are computed on the basis of the initial gift amount plus compound interest for the period between the date of the gift and the date on which the annuity payments begin. As compared to the regular charitable gift annuity, these factors can result in significantly higher annuity payments and income tax deduction. Most charitable organizations use the compound interest rate recommended by the Committee on Gift Annuities.

Any institution issuing Charitable Gift Annuities, either regular or deferred, should obtain the workbook published by the Committee on Gift Annuities which provides worksheets, tables and actuarial rates for determining the annuity amount to be paid and for computing income tax deductibility, the exclusion ratio

(amount of the annuity payment which is non-taxable) and the capital gains tax liability, if appropriate. This workbook and the annuity rate tables can be obtained by writing:

Committee on Gift Annuities
1865 Broadway
New York, New York 10023

RATE TABLES APPLICABLE TO REGULAR AND DEFERRED

CHARITABLE GIFT ANNUITIES

Section 72.—Annuities; Certain Proceeds of Endowment and Life Insurance Contracts

26 CFR 1.72-6: Investment in the contract.
(Also Sections 101, 170, 1011, 2031, 2055, 2512, 2522; 1.101-2, 1.170-2, 1.1011-2, 20.2031-1, 20.2055-1, 25.2512-1, 25.2522 (a)-1.)

Revised annuity rate table to be used for valuing annuity contracts issued after September 18, 1972, by organizations, other than insurance companies, in exchange for money or other property; Revenue Rulings 62-137, 62-216 and 67-39 amplified.

Rev. Rul. 72-438

SECTION 1. PURPOSE

The purpose of this Revenue Ruling is to update the rate tables contained in Revenue Ruling 62-216, C.B. 1962-2, 30, and to add tables to be used in the evaluation of certain types of deferred payment annuity contracts more fully described below.

SEC. 2. BACKGROUND

.01 Revenue Ruling 62-137, C.B. 1962-2, 28, holds that for purposes of section 72 of the Internal Revenue Code of 1954, the aggregate amount of consideration paid (investment in the contract), in the case of life annuity contracts issued by an organization such as a corporation, trust, fund, or foundation (other than an insurance company) which from time to time enters into agreements to pay annuities of a specified amount to individuals or their designees in exchange for money or other property, is to be determined by reference to the cost of a comparable contract purchased from an insurance company, citing *Anna L. Raymond v. Commissioner*, 40 B.T.A. 244, affirmed 114 Fed. (2d) 140, certiorari denied, 311 U.S. 710.

.02 Revenue Ruling 62-137 was supplemented by Revenue Ruling 62-216, which contains expanded tables of annuity rates.

.03 Revenue Ruling 62-216 states that the annuity rates set forth therein are subject to change depending on

market conditions, and that notice of change will be given by publication in the Internal Revenue Bulletin.

.04 Revenue Ruling 67-39, C.B. 1967-1, 18, holds that the rates set forth in Revenue Ruling 62-216 are to be used for estate and gift tax purposes and for income tax purposes as well as for purposes of section 72 of the Code, in valuing annuity contracts issued from time to time by an organization such as a corporation, trust, fund or foundation (other than an insurance company) in exchange for money or other property.

.05 Recently, many such organizations have begun issuing so-called deferred payment annuity contracts in exchange for money or other property, and have requested that tables be furnished that may be used to evaluate such contracts for the purposes referred to above. These contracts, which provide no guaranteed payments or refund feature, are further described in section 8.

SEC. 3. RATES TO BE USED

The annuity rates set forth in the following sections shall be used instead of the annuity rates of Revenue Ruling 62-216, above, in valuing any of the annuity contracts described in section 2 that are issued after September 18, 1972. The rates of Revenue Ruling 62-216 continue to apply to annuity contracts described in section 2 that were issued on or before such date, except that deferred payment annuity contracts require a special computation. In the case of an actual gift, the Commissioner will ordinarily supply the computation upon request. The request must be accompanied by a statement of the date of birth and sex of each annuitant and by copies of the relevant instruments.

SEC. 4. UNADJUSTED RATES. SEMI-ANNUAL BASIS. AGES NEAREST BIRTHDAY.

.01 The annuity rates of Tables A and C of section 14 are rates for annuities payable in equal semiannual installments, first installment 6 months from valuation date. The method of

adjusting for other modes of payment is described in section 5.

.02 Rates for single life annuities are set forth in Table A. Rates for annuities payable during the joint lives of two male annuitants of equal age are set forth in Table C. The use of Table C is demonstrated in section 6.

.03 For purposes of the computations described in this Revenue Ruling, the age of a person is to be taken as the age of that person at his nearest birthday.

SEC. 5. ADJUSTMENT FOR MODE OF PAYMENT

.01 First annuity payment due at once. To obtain the rate for \$1.00 per annum payable in equal installments at the beginning of each—

- 1 monthly period, add \$0.310 to the unadjusted rate.
- 2 quarterly period, add \$0.399 to the unadjusted rate.
- 3 semiannual period, add \$0.532 to the unadjusted rate.
- 4 annual period, add \$0.798 to the unadjusted rate.

.02 First annuity payment due at the end of 1, 3, 6, or 12 months. To obtain the rate for \$1.00 per annum payable in equal installments at the end of each—

- 1 monthly period, add \$0.222 to the unadjusted rate.
- 2 quarterly period, add \$0.133 to the unadjusted rate.
- 3 semiannual period, use the unadjusted rate.
- 4 annual period, subtract \$0.266 from the unadjusted rate.

SEC. 6. JOINT LIFE ANNUITY (TWO LIVES)

.01 A necessary step in the computation of a joint and survivor annuity rate is to determine a joint life annuity rate. This step utilizes Table B and C of section 14 in the following manner:

- 1 If one or both of the annuitants is female, substitute for each female annuitant a male annuitant 4 years younger; that is, subtract 4 years from the age of each female annuitant.

Tables B and C are then used with male ages only, either actual or substituted.

2 An "equivalent equal age" corresponding to any two male ages can be determined by means of Table B. This age will consist of a whole number and a decimal. Straight line interpolation between two adjacent premiums in Table C will then give a value, corresponding to the "equivalent equal age," which is the joint life annuity rate required.

Example 1. The joint life annuity rate for a male annuitant aged 65 and a female annuitant aged 60 is \$9.042, obtained as follows:

Actual ages	65M	60F
Subtract 4 years from age of each female annuitant	—	4
Male ages	65M	56M
Differences in male ages: 9		
Addition to younger age for a difference in age of 9 years (See Table B)		5.596
Equivalent equal age		61.596M
Integral ages below and above 61.596M:	61M, 62M	
Joint life annuity rates from Table C:		
2 lives both aged 61M		\$9.212
2 lives both aged 62M		8.927
Decrease for 1 year of age		\$0.285
Times fractional part of equivalent equal age		× 0.596
Decrease for 0.596 of a year of age		\$0.170
Above rate, 2 lives both aged 61M		\$9.212
Decrease for 0.596 of a year of age		0.170
Joint life annuity rate, 2 lives aged 61.596M		\$9.042
Use same rate for 2 lives aged 65M and 56M		\$9.042
Use same rate for 2 lives aged 65M and 60F		\$9.042

Example 2. The joint life annuity rate for two female annuitants aged 69 and 60 is also \$9.042 because their substitute ages, 4 years less than their

actual ages, are 65M and 56M. See Example 1.

SEC. 7. JOINT AND SURVIVOR ANNUITY (TWO LIVES)

.01 The rate for a joint and survivor annuity is determined as follows:

1. Find the sum of the two single life rates from Table A that are separately applicable to the annuitants.

2. Compute the joint life annuity rate for the two annuitants, using Tables B and C and the method described in section 6.

3. Subtract the second result from the first to obtain the required joint and survivor annuity rate.

Example 3. The rate for an annuity of \$1.00 per annum payable during the joint lives and the life of the survivor of a male annuitant aged 65 and a female annuitant aged 60 is \$13.452, obtained as follows:

Single life rate, age 65M, Table A	\$10.104
Single life rate, age 60F, Table A	12.390
	<u>\$22.494</u>
Less: Joint life annuity rate, ages 65M and 60F (see Example 1)	9.042
Required joint and survivor annuity rate	<u>\$13.452</u>

Accordingly, the value determined from the present tables of a joint and survivor annuity providing payments of \$500 each at the end of each 6 month period while at least one of the two annuitants survives is \$1,000 times 13.452 or \$13,452.

Example 4. Because of the 4-year age differential discussed in section 6, the same joint and survivor rate applies in all of the following cases:

Age and sex of the annuitants	Joint and survivor annuity rate
65M:60F (Example 3)	\$13.452
69F:60F	13.452
65M:56M	13.452
69F:56M	13.452

SEC. 8. DEFERRED PAYMENT ANNUITIES. THE STARTING ANNIVERSARY

.01 An annuity agreement may provide a deferred payment annuity, that is, an annuity that commences more than one year from the date of purchase.

The annuities discussed herein include a deferred payment single life annuity, where all obligation under the agreement ceases on the death of a designated annuitant; a deferred payment joint life annuity, where the obligation ceases on the first death among two designated annuitants; and a deferred payment joint and survivor annuity, where the obligation ceases on the last death among two designated annuitants.

.02 For the purpose of valuing deferred payment annuities, it is convenient to make use of a date called the "starting anniversary." The starting anniversary of a deferred payment annuity is the anniversary of the date of purchase that coincides with (or next precedes, if none coincides with) the due date of the first annuity payment.

SEC. 9. DEFERRED PAYMENT SINGLE LIFE ANNUITY. DISCOUNTING THE RATE AT THE STARTING ANNIVERSARY

.01 The rate at the starting anniversary for a deferred payment single life annuity is the rate from Table A based on the attained age of the annuitant at the starting anniversary and adjusted for mode of payment in accordance with section 5.

.02 The rate described in section 9.01 is then discounted by multiplying it by the quotient obtained by dividing (1) the D-factor opposite the attained age of the annuitant at the starting anniversary by (2) the D-factor opposite the age of the annuitant at the date of purchase. The discounted rate so obtained is the rate at date of purchase.

Example 5. A man at age 55 purchases a deferred payment life annuity on his own life that is to pay \$1,200 per annum in equal semiannual installments, first installment payable 10 years hence. The rate for the annuity at date of purchase is \$5.252, determined as follows:

(1) Age of annuitant at starting anniversary	65M
(2) Rate from Table A, age 65M	\$10.104
(3) Adjustment for semiannual installments, first installment due at once (see section 5)	+ 0.532

(4) Rate at starting anniversary	\$10.636
(5) Age at starting anniversary	65M
(6) Age at date of purchase	55M
(7) D-factor, age 65M (Table D)	185,700.6
(8) D-factor, age 55M (Table D)	373,221.4
(9) Quotient: (7) divided by (8)	0.497562
(10) Rate at date of purchase: (4) times (9)	\$5.292

Based on the rate at date of purchase, the value of the annuity at date of purchase is $\$1,200 \times 5.292$ or $\$6,350.40$.

Example 6. The facts are the same as in Example 5, except that the annuity of \$1,200 per annum is payable in equal monthly installments, first installment payable 10 years and 1 month hence. The rate for the annuity at date of purchase is \$5.138, determined as follows:

(1) Age of annuitant at starting anniversary	65M
(2) Rate from Table A, age 65M	\$10.104
(3) Adjustment for monthly installments, 1st installment due 1 month hence (see section 5)	+ 0.222
(4) Rate at starting anniversary	\$10.326
(5) Age at starting anniversary	65M
(6) Age at date of purchase	55M
(7) D-factor, age 65M (Table D)	185,700.6
(8) D-factor, age 55M (Table D)	373,221.4
(9) Quotient: (7) divided by (8)	0.497562
(10) Rate at date of purchase: (4) times (9)	\$5.138

Based on the rate at date of purchase, the value of the annuity at date of purchase is $\$1,200 \times 5.138$ or $\$6,165.60$.

SEC. 10. DEFERRED PAYMENT JOINT LIFE ANNUITY (TWO LIVES). DISCOUNTING THE RATE AT THE STARTING ANNIVERSARY

.01 The rate at the starting anniversary for a deferred payment joint life annuity (two lives) is the joint life annuity rate (1) determined in accordance with section 6 on the basis of the attained ages of the annuitants at the starting anniversary, and (2) adjusted for mode of payment in accordance with section 5.

.02 The rate described in section 10.01 is then discounted by multiplying it by the product of two quotients. The first quotient is (1) the D-factor in Table D opposite the attained age of the first annuitant at the starting anniversary divided by (2) the D-factor opposite the age of such annuitant at the date of purchase. The second quotient is (1) the 1-factor in Table D opposite the attained age of the second annuitant at the starting anniversary divided by (2) the 1-factor opposite the age of such annuitant at the date of purchase. Either annuitant may be selected as the first annuitant; the product of the two quotients will not be affected. The discounted rate so obtained is the rate at date of purchase.

Example 7. Two annuitants, a man aged 55 and a woman aged 50, purchase a deferred payment joint life annuity that is to pay \$1,200 per annum in equal semiannual installments while both of them are living, first installment payable 10 years hence. The rate for the annuity at date of purchase is \$4.522, determined as follows:

(1) Ages of annuitants at starting anniversary	65M:60F
(2) Joint life annuity rate, ages 65M and 60F (see Example 1)	\$9.042
(3) Adjustment for semiannual payments, 1st payment due at once (see section 5)	+ 0.532
(4) Rate at starting anniversary	\$9.574
(5) First annuitant's age at starting anniversary	65M
(6) First annuitant's age at purchase	55M
(7) D-factor, age 65M (Table D)	185,700.6
(8) D-factor, age 55M (Table D)	373,221.4
(9) Quotient: (7) divided by (8)	0.497562

(10) Second annuitant's age at starting anniversary	60F
(11) Second annuitant's age at purchase	50F
(12) 1-factor, age 60F (Table D)	9,128,516
(13) 1-factor, age 50F (Table D)	9,616,151
(14) Quotient: (12) divided by (13)	0.949290
(15) Product of quotients: (9) times (14)	0.472331
(16) Rate at date of purchase: (4) times (15)	\$4.522

Based on the rate at date of purchase, the value of the annuity at date of purchase is $\$1,200 \times 4.522$ or $\$5,426.40$.

SEC. 11. DEFERRED PAYMENT JOINT AND SURVIVOR ANNUITY (TWO LIVES)

The rate at date of purchase for a deferred payment joint and survivor annuity (two lives) is equal to—

- (1) the rate at date of purchase for a deferred payment single life annuity on the life of the first annuitant *plus*
- (2) the rate at date of purchase for a deferred payment single life annuity on the life of the second annuitant *minus*
- (3) the rate at date of purchase for a deferred payment joint life annuity on the lives of both of the annuitants.

Rates (1) and (2) are determined by the method of section 9. Rate (3) is determined by the method of section 10.

Example 8. Two annuitants, a man aged 55 and a woman aged 50, purchase a deferred payment joint and survivor annuity that is to pay \$1,200 per annum in equal semiannual installments while at least one of them is living, first installment payable 10 years hence. The rate for the annuity at date of purchase is \$7.620, determined as follows:

- (1) Rate at date of purchase for deferred payment life annuity, one life, age 55M, semiannual installments, 1st installment 10 years hence (from Example 5)
- (2) Rate at date of purchase for deferred payment life annuity, one life, age

50F, semiannual installments, 1st installment 10 years hence (computed by method of section 9)

\$6.850

(3) Rate at date of purchase for deferred payment joint life annuity, two lives, ages 55M and 50F, semiannual installments, 1st installment 10 years hence (from Example 7)

\$4.522

(4) Rate at date of purchase for deferred payment joint and survivor annuity:

(1) plus (2) minus (3) \$7.620

Based on the foregoing, the value of the given annuity at date of purchase is $\$1,200 \times 7.620$ or $\$9,144.00$.

SEC. 12. RATES SUBJECT TO CHANGE

Tables A, B, C, and D are subject to change depending upon market conditions. Notice of change will be given by publication in the Internal Revenue Bulletin.

SEC. 13. EFFECT ON OTHER DOCUMENTS

Revenue Ruling 62-137, Revenue Ruling 62-216, and Revenue Ruling 67-39 are amplified.

SEC. 14. TABLES

Table A

Single Life Annuity Rates
(\$1.00 per annum in semiannual installments)

Age	Rate	
	Male	Female
0	17.546	-----
1	17.573	-----
2	17.569	-----
3	17.555	-----
4	17.538	17.546
5	17.519	17.573
6	17.498	17.569
7	17.475	17.555
8	17.450	17.538
9	17.424	17.519
10	17.396	17.498
11	17.366	17.475
12	17.335	17.450
13	17.302	17.424
14	17.267	17.396
15	17.230	17.366
16	17.191	17.335

Table A (cont'd)

Age	Rate	
	Male	Female
17	17.150	17.302
18	17.107	17.267
19	17.061	17.230
20	17.013	17.191
21	16.962	17.150
22	16.908	17.107
23	16.852	17.061
24	16.792	17.013
25	16.729	16.962
26	16.663	16.908
27	16.593	16.852
28	16.520	16.792
29	16.442	16.729
30	16.361	16.663
31	16.275	16.593
32	16.185	16.520
33	16.091	16.442
34	15.991	16.361
35	15.887	16.275
36	15.777	16.185
37	15.662	16.091
38	15.541	15.991
39	15.414	15.887
40	15.281	15.777
41	15.142	15.662
42	14.996	15.541
43	14.844	15.414
44	14.687	15.281
45	14.524	15.142
46	14.356	14.996
47	14.182	14.844
48	14.004	14.687
49	13.820	14.524
50	13.632	14.356
51	13.438	14.182
52	13.239	14.004
53	13.035	13.820
54	12.826	13.632
55	12.611	13.438
56	12.390	13.239
57	12.164	13.035
58	11.931	12.826
59	11.691	12.611
60	11.444	12.390
61	11.190	12.164
62	10.928	11.931
63	10.660	11.691
64	10.385	11.444
65	10.104	11.190
66	9.816	10.928
67	9.522	10.660
68	9.224	10.385
69	8.920	10.104
70	8.612	9.816
71	8.301	9.522

Table A (cont'd)

Age	Rate	
	Male	Female
72	7.987	9.221
73	7.670	8.920
74	7.353	8.612
75	7.034	8.301
76	6.716	7.987
77	6.399	7.670
78	6.084	7.353
79	5.773	7.034
80	5.466	6.716
81	5.164	6.399
82	4.868	6.081
83	4.578	5.773
84	4.296	5.466
85	4.023	5.164
86	3.759	4.868
87	3.505	4.578
88	3.263	4.296
89	3.033	4.023
90	2.818	3.759
91	2.620	3.505
92	2.431	3.263
93	2.251	3.033
94	2.080	2.818
95	1.918	2.620
96	1.766	2.431
97	1.622	2.251
98	1.488	2.080
99	1.362	1.918
100	1.244	1.766
101	1.135	1.622
102	1.033	1.488
103	.936	1.362
104	.842	1.244
105	.739	1.135
106	.591	1.033
107	-----	.936
108	-----	.842
109	-----	.739
110	-----	.591

Table B

Uniform Seniority Table

Two male lives	
Difference in age	Addition to younger age
1	.514
2	1.057
3	1.626
4	2.224
5	2.848
6	3.499
7	4.174

Table B (cont'd)

<i>Difference in age</i>	<i>Addition to younger age</i>
8	4.873
9	5.596
10	6.342
11	7.107
12	7.892
13	8.696
14	9.517
15	10.354
16	11.206
17	12.071
18	12.949
19	13.839
20	14.739
21	15.649
22	16.568
23	17.495
24	18.429
25	19.369
26	20.316
27	21.268
28	22.225
29	23.187
30	24.152
31	25.121
32	26.093
33	27.068
34	28.046
35	29.026
36	30.008
37	30.992
38	31.977
39	32.965
40	33.953
41	34.943
42	35.934
43	36.926
44	37.918
45	38.912
46	39.906
47	40.900
48	41.896
49	42.891
50	43.888
51	44.885
52	45.882
53	46.879
54	47.876
55	48.875
56	49.872
57	50.871
58	51.869
59	52.868
60	53.867

Table C

Joint Life Annuity Rates
Two Male Lives
(\$1.00 per annum in semiannual
installments)
Equal Ages (Male)

<i>Age</i>	<i>Rate</i>
0	17.259
1	17.322
2	17.323
3	17.306
4	17.283
5	17.257
6	17.228
7	17.195
8	17.160
9	17.123
10	17.083
11	17.041
12	16.996
13	16.949
14	16.900
15	16.847
16	16.792
17	16.734
18	16.673
19	16.608
20	16.540
21	16.468
22	16.393
23	16.314
24	16.230
25	16.142
26	16.050
27	15.953
28	15.851
29	15.744
30	15.631
31	15.513
32	15.390
33	15.260
34	15.124
35	14.981
36	14.832
37	14.676
38	14.513
39	14.342
40	14.164
41	13.977
42	13.783
43	13.583
44	13.376
45	13.163
46	12.946
47	12.724
48	12.498
49	12.268
50	12.034

Table C (cont'd)

<i>Age</i>	<i>Rate</i>
51	11.797
52	11.556
53	11.312
54	11.064
55	10.813
56	10.558
57	10.298
58	10.034
59	9.766
60	9.492
61	9.212
62	8.927
63	8.638
64	8.345
65	8.047
66	7.747
67	7.444
68	7.140
69	6.835
70	6.529
71	6.224
72	5.921
73	5.620
74	5.322
75	5.028
76	4.739
77	4.456
78	4.180
79	3.911
80	3.651
81	3.400
82	3.158
83	2.926
84	2.704
85	2.493
86	2.292
87	2.103
88	1.926
89	1.762
90	1.611
91	1.478
92	1.354
93	1.238
94	1.130
95	1.030
96	.938
97	.853
98	.776
99	.705
100	.641
101	.584
102	.532
103	.486
104	.446
105	.410
106	.371
107	0.000

Table D

Values of I_x and D_x

Age		I_x	D_x
Male	Female		
0	4	10000000	10000000
1	5	9970500	9406132
2	6	9958994	8863469
3	7	9952541	8356345
4	8	9947346	7879229
5	9	9942790	7429831
6	10	9938684	7006380
7	11	9934868	6607254
8	12	9931242	6230984
9	13	9927706	5876193
10	14	9924211	5541627
11	15	9920708	5226105
12	16	9917146	4928517
13	17	9913506	4647838
14	18	9909798	4383113
15	19	9906003	4133428
16	20	9902120	3897932
17	21	9898139	3675816
18	22	9894041	3466315
19	23	9889826	3268716
20	24	9885474	3082337
21	25	9880966	2906539
22	26	9876292	2740721
23	27	9871433	2584314
24	28	9866369	2436781
25	29	9861090	2297620
26	30	9855558	2166350
27	31	9849753	2042523
28	32	9843646	1925713
29	33	9837208	1815523
30	34	9830410	1711573
31	35	9823204	1613508
32	36	9815552	1520992
33	37	9807415	1433708
34	38	9798726	1351357
35	39	9789447	1273658
36	40	9779501	1200343
37	41	9768832	1131164
38	42	9757373	1065884
39	43	9745030	1004279
40	44	9731709	946138.0
41	45	9717316	891262.9
42	46	9701564	839451.1
43	47	9683985	790500.0
44	48	9664162	744228.2
45	49	9641673	700468.3
46	50	9616151	659069.9
47	51	9587254	619895.6
48	52	9554657	582818.8
49	53	9518053	547722.7
50	54	9477192	514501.2
51	55	9431815	483054.5
52	56	9381572	453284.2
53	57	9326371	425110.5

Table D (cont'd)

Age		I_x	D_x
Male	Female		
54	58	9265862	398445.7
55	59	9200028	373221.4
56	60	9128516	349358.8
57	61	9051344	326797.5
58	62	8968153	305466.0
59	63	8879010	285311.0
60	64	8783534	266267.0
61	65	8681803	248286.0
62	66	8572959	231295.5
63	67	8456410	215236.8
64	68	8331551	200055.5
65	69	8197746	185700.6
66	70	8054335	172124.5
67	71	7900272	159275.5
68	72	7734848	147113.6
69	73	7557349	135601.6
70	74	7367100	124705.6
71	75	7163459	114394.8
72	76	6945310	104633.2
73	77	6712128	95396.4
74	78	6463517	86663.2
75	79	6199256	78415.1
76	80	5919353	70636.4
77	81	5623338	63305.7
78	82	5311777	56413.4
79	83	4985639	49952.5
80	84	4646356	43918.1
81	85	4295872	38306.8
82	86	3936681	33116.9
83	87	3571845	28346.9
84	88	3205002	23995.8
85	89	2840295	20061.6
86	90	2482307	16540.6
87	91	2135909	13426.8
88	92	1806067	10710.7
89	93	1497594	8378.61
90	94	1214884	6412.20
91	95	961599	4788.07
92	96	743131	3490.81
93	97	559331	2478.70
94	98	408893	1709.46
95	99	289448	1141.60
96	100	197741	735.76
97	101	129892	455.95
98	102	81706	270.57
99	103	48995	153.06
100	104	27868	82.13
101	105	14954	41.58
102	106	7524	19.74
103	107	3526	8.73
104	108	1528	3.57
105	109	607	1.34
106	110	219	.46
107	111	71	.14
108	112	0	0.00

NOTE: THIS FORM SHOULD BE USED ONLY FOR GIFT ANNUITIES SUBJECT TO INTERNAL REVENUE RULING 72-438, ISSUED AFTER SEPTEMBER 18, 1972

No. _____

GIFT ANNUITY
FEDERAL INCOME TAX CALCULATION

Date Issued 4/1/73 Payable QUARTERLY 3/31 6/30 9/30 12/31

	DATE OF BIRTH	SEX	AGE
First Annuitant <u>JOHN DOE</u>	<u>7/27/08</u>	<u>M</u>	<u>65</u>
Second Annuitant <u>MARY DOE</u>	<u>3/24/10</u>	<u>F</u>	<u>63</u>

COMPUTATION OF GIFT VALUE

1. Principal donated for annuity	<u>20,000</u>
2. Annuity rate*	<u>4.9</u>
3. Annual annuity (1 x 2)	<u>980</u>
4. Value of \$1.00 (Refer to Schedule 3 or use reverse side for two lives)	<u>12.857</u>
5. Actuarial value (3 x 4)	<u>12,599.86</u>
6. Gift value (1 - 5)	<u>7,400.14</u>

COMPUTATION OF EXCLUSION RATIO

3. Annual annuity	<u>980</u>
7. Unadjusted expected return multiple (Schedule 5 or 6)	<u>23.0</u>
8. Adjustment if not monthly (Schedule 7)	<u>-.1</u>
9. Expected return per \$1.00 annual annuity (7 adjusted by 8)	<u>22.9</u>
10. Expected return (3 x 9)	<u>22,442.00</u>
5. Actuarial value	<u>12,599.86</u>
11. Exclusion ratio (5 ÷ 10)	<u>56.14%</u>

COMPUTATION OF TAXABLE INCOME

REGULAR PAYMENT

3. Annual annuity	<u>980</u>
11. Exclusion ratio	<u>56.14%</u>
12. Exclusion (3 x 11)	<u>550.17</u>
13. Taxable income (3 - 12)	<u>429.83</u>

PARTIAL PAYMENT YEAR OF _____

3A. First year annuity payment	<u>735</u>
11. Exclusion ratio	<u>56.14%</u>
12A. Exclusion (3A x 11)	<u>412.63</u>
13A. Taxable income first year (3A - 12A)	<u>322.37</u>

NOTE: The values in Schedules 3, 4 and 4A may also be found in Tables A, B and C, respectively, of Rev. Rul. 72-438; the values in Schedules 5 and 6 may also be found in Tables I and II, respectively, of Reg. 1.72-9 and the values in Schedule 7 may also be found in the table in Reg. 1.72-5(a).

* From Uniform Gift Annuity Rates adopted by Conference on Gift Annuities, April 15, 1971.

COMPUTATION OF VALUE OF TWO-LIFE ANNUITY FOR INSERTION IN 4 OF OTHER SIDE

	SEX	AGE	VALUE OF \$1.00	
14. First life (Schedule 3)	M	65	10	237
15. Second life (Schedule 3)	F	63	11	824
16. Total			22	061
17. Joint Life Value (Computed below in 19 through 29)			9	204
18. Value of \$1.00 (16 - 17) (Carry over to 4 of other side)			12	857

COMPUTATION OF JOINT LIFE VALUE FOR INSERTION IN 17 ABOVE

If any annuitant is female, DEDUCT four years from age of female to convert female age to equivalent male age.

	<u>Male Age</u>		
19. Age of older	<u>65</u>	years	
20. Age of younger	<u>59</u>		<u>59</u> years
21. Difference in ages (19 - 20)	<u>6</u>		
22. Addition to younger age (Schedule 4) for difference in ages in 21			<u>3.499</u> years
23. Equivalent age of two male lives (20 + 22)			<u>62.499</u> years
24. Annuity value (Schedule 4A) of nearest whole age under equivalent age in 23	<u>62</u> years	\$ <u>9.060</u>	\$ <u>9.060</u>
25. Annuity value (Schedule 4A) of nearest whole age over equivalent age in 23	<u>63</u> years	<u>8.771</u>	
26. Difference in annuity value for one whole year of age (24 - 25)		<u>.289</u>	
27. Fractional portion of age in 23		<u>.499</u>	
28. Difference in annuity value for fractional year (26 x 27)		<u>.144211</u>	<u>.144</u>
29. Joint life value of \$1.00 (24 - 28) (enter in 17 above)			<u>9.204</u>

* If difference in ages is 0, do not calculate lines 22 through 29, but instead enter directly in 17 above the annuity value from Schedule 4A for the age in 19.

NOTE: THIS FORM SHOULD BE USED ONLY FOR GIFT ANNUITIES SUBJECT TO INTERNAL REVENUE RULING 72-438, ISSUED AFTER SEPTEMBER 18, 1972

No. _____

GIFT ANNUITY FEDERAL INCOME TAX CALCULATION

Date Issued _____ Payable _____

	DATE OF BIRTH	SEX	AGE
First Annuitant _____			
Second Annuitant _____			

COMPUTATION OF GIFT VALUE

1. Principal donated for annuity	
2. Annuity rate*	
3. Annual annuity (1 x 2)	
4. Value of \$1.00 (Refer to Schedule 3 or use reverse side for two lives)	
5. Actuarial value (3 x 4)	
6. Gift value (1 - 5)	

COMPUTATION OF EXCLUSION RATIO

3. Annual annuity	_____
7. Unadjusted expected return multiple (Schedule 5 or 6)	_____
8. Adjustment if not monthly (Schedule 7)	_____
9. Expected return per \$1.00 annual annuity (7 adjusted by 8)	_____
10. Expected return (3 x 9)	_____
5. Actuarial value	_____
11. Exclusion ratio (5 ÷ 10)	_____

COMPUTATION OF TAXABLE INCOME

REGULAR PAYMENT

3. Annual annuity	
11. Exclusion ratio	
12. Exclusion (3 x 11)	
13. Taxable income (3 - 12)	

PARTIAL PAYMENT YEAR OF _____

3A. First year annuity payment	
11. Exclusion ratio	
12A. Exclusion (3A x 11)	
13A. Taxable income first year (3A - 12A)	

NOTE: The values in Schedules 3, 4 and 4A may also be found in Tables A, B and C, respectively, of Rev. Rul. 72-438; the values in Schedules 5 and 6 may also be found in Tables I and II, respectively, of Reg. 1.72-9 and the values in Schedule 7 may also be found in the table in Reg. 1.72-5(a).

* From Uniform Gift Annuity Rates adopted by Conference on Gift Annuities.

COMPUTATION OF VALUE OF TWO-LIFE ANNUITY FOR INSERTION IN 4 OF OTHER SIDE

	SEX	AGE	VALUE OF \$1.00	
14. First life (Schedule 3)				
15. Second life (Schedule 3)				
16. Total				
17. Joint Life Value (Computed below in 19 through 29)				
18. Value of \$1.00 (16 - 17) (Carry over to 4 of other side)				

COMPUTATION OF JOINT LIFE VALUE FOR INSERTION IN 17 ABOVE

If any annuitant is female, DEDUCT four years from age of female to convert female age to equivalent male age.

	<u>Male Age</u>	
19. Age of older	_____	years
20. Age of younger	_____	_____ years
21. Difference in ages (19 - 20)	_____ *	
22. Addition to younger age (Schedule 4) for difference in ages in 21		_____ years
23. Equivalent age of two male lives (20 + 22)		_____ years
24. Annuity value (Schedule 4A) of nearest whole age under equivalent age in 23	_____ years	\$ _____ \$ _____
25. Annuity value (Schedule 4A) of nearest whole age over equivalent age in 23	_____ years	_____
26. Difference in annuity value for one whole year of age (24 - 25)	_____	
27. Fractional portion of age in 23	_____	
28. Difference in annuity value for fractional year (26 x 27)	_____	_____
29. Joint life value of \$1.00 (24 - 28) (enter in 17 above)		_____

* If difference in ages is 0, do not calculate lines 22 through 29, but instead enter directly in 17 above the annuity value from Schedule 4A for the age in 19.

CALCULATION OF CAPITAL GAIN LIABILITY WHEN APPRECIATED PROPERTY IS
USED TO FUND A CHARITABLE GIFT ANNUITY (DONATIVE SALE RULE).

(This form is to be used in conjunction with the worksheets
published by the Committee on Gift Annuities for calculating
Federal income tax on a charitable gift annuity.)

- | | |
|---|------------------|
| 1. FAIR MARKET VALUE OF DONATED PROPERTY | \$ <u>20,000</u> |
| 2. COST-BASIS OF DONATED PROPERTY | \$ <u>12,000</u> |
| 3. ACTUARIAL VALUE (Line 5 of Gift Annuity Calculation) | \$ <u>12,600</u> |
| 4. EXCLUSION RATIO (Line 11 of Gift Annuity Calculation) | <u>56.14</u> % |
| 5. LIFE EXPECTANCY MULTIPLE (Line 7 of Gift Annuity Calculation) | <u>23</u> |
| 6. ANNUAL ANNUITY (Line 3 of Gift Annuity Calculation) | \$ <u>980</u> |
| 7. PERCENTAGE RATIO OF COST-BASIS TO FAIR MARKET VALUE
(Line 2 divided by Line 1) | <u>60</u> % |
| 8. COST-BASIS ALLOCATED TO ACTUARIAL VALUE (Line 7 x Line 3) | \$ <u>7560</u> |
| 9. CAPITAL GAIN ALLOCABLE TO ACTUARIAL VALUE (Line 3 minus Line 8) | \$ <u>5040</u> |
| 10. CAPITAL GAIN REPORTABLE EACH YEAR OVER LIFE EXPECTANCY OF
ANNUITANT(S) (Line 9 divided by Line 5)* | \$ <u>219.13</u> |

* Prorate for partial payment year

CALCULATION OF CAPITAL GAIN LIABILITY WHEN APPRECIATED PROPERTY IS
USED TO FUND A CHARITABLE GIFT ANNUITY (DONATIVE SALE RULE).

(This form is to be used in conjunction with the worksheets
published by the Committee on Gift Annuities for calculating
Federal income tax on a charitable gift annuity.)

1. FAIR MARKET VALUE OF DONATED PROPERTY \$ _____
2. COST-BASIS OF DONATED PROPERTY \$ _____
3. ACTUARIAL VALUE (Line 5 of Gift Annuity Calculation) \$ _____
4. EXCLUSION RATIO (Line 11 of Gift Annuity Calculation) _____ %
5. LIFE EXPECTANCY MULTIPLE (Line 7 of Gift Annuity Calculation) _____
6. ANNUAL ANNUITY (Line 3 of Gift Annuity Calculation) \$ _____
7. PERCENTAGE RATIO OF COST-BASIS TO FAIR MARKET VALUE
(Line 2 divided by Line 1) _____ %
8. COST-BASIS ALLOCATED TO ACTUARIAL VALUE (Line 7 x Line 3) \$ _____
9. CAPITAL GAIN ALLOCABLE TO ACTUARIAL VALUE (Line 3 minus Line 8) \$ _____
10. CAPITAL GAIN REPORTABLE EACH YEAR OVER LIFE EXPECTANCY OF
ANNUITANT(S) (Line 9 divided by Line 5)* \$ _____

* Prorate for partial payment year

Charitable Income Trust

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THE CHARITABLE INCOME (LEAD) TRUST

A number of articles have appeared recently concerning the use of lead trusts as an effective estate planning tool for wealthy individuals. The lead trust is the obverse of the Charitable Remainder Trust, i.e., it provides for the charity to receive income for an ascertainable period of time, and for the remainder to revert to the donor or to pass to an individual remainderman (or remaindermen).

Although a lead trust can, if properly drawn, generate a charitable income tax deduction, its primary attractiveness lies in ridding an estate of income producing assets. Although a gift/estate tax will be levied on the present value of the remainder interest going to an individual, the charitable income interest serves to minimize that tax substantially.

In the advocacy or the use of a lead trust, a number of caveats should be observed:

1. The creation of a lead trust will only result in the elimination of Federal estate tax on the appreciation subsequent to the date of gift of any property placed in the trust, but it will eliminate all federal tax on the value of the charitable gift (income produced by the trust for a period of years as computed actuarially in conformity with IRS regulations). In a "living trust" situation, however, it can result in a gift tax on the value of the remainder interest that does not go to charity.
2. In general, a lead trust is a valuable estate planning tool only for a wealthy individual with property which will appreciate and which the individual can afford to dispose of prior to his death (unless the trust is a testamentary one).
3. The donor of a lead trust will not receive an income tax charitable deduction unless the lead trust is in the form of an annuity trust or unitrust. (The Code does not specify "annuity trust" or "unitrust" but says that the interest must be in the form of a "guaranteed annuity" or "is a fixed percentage distributed yearly of the fair market value of the property"). IRC sections 2055(e)(2)(B) and 170(f)(2)(B). However, the safest

position in drafting a lead trust would be to adhere to the annuity trust or unitrust rules.

In addition, no deduction will be available unless the donor is taxed on the income paid to the charity (e.g., his reversionary interest will take effect within less than ten years). In that event, he will receive the income tax deduction during the year of the gift but will be required to pay income taxes on the income produced by the trust during the life of the trust. The charitable deduction is limited to 20 percent of his adjusted gross income with no five year carry-over.

Finally, any donor by way of a "living trust" can anticipate the possibility of a recapture problem. If the donor is allowed a charitable deduction and then ceases to be taxed on the trust income prior to the time set by the trust (e.g., by death), he will be considered to have received income equal to the amount by which the charitable deduction (previously taken) exceeds the value of the income previously taxed to the donor. IRC section 170(f)(2)(B). This provision defeats the potential income tax advantage to be obtained by a taxpayer who does not live the full nine years that were utilized in computing the value of the charitable deduction.

4. A testamentary lead trust will provide the donor's estate with an estate tax deduction for the value of the income interest provided to the charity, but, of course, results in no income tax deduction for the decedent.
5. The lead trust could be used as a device to get around the generation skipping provisions of the 1976 Tax Reform Act in that the remainder interest will not pass through one generation to get to another. The donor, therefore, could pass on to his grandchildren in excess of \$250,000 per parent of those grandchildren without additional tax liability to the estate of the parent. However, practitioners should be wary of using individual trustees for a lead trust of this sort because the individual trustee could be considered to be a beneficiary of the trust for generation skipping purposes.

SHORT TERM CHARITABLE INCOME (LEAD) TRUST

UNITRUST INTEREST

Copyright, Conrad Teitell, 1977. Excerpted from "Deferred Giving - Explanation, Specimen Agreements, Reporting Forms")

Comment: Use of this form generates no income tax charitable deduction for Donor because he is not considered owner of the trust (not taxable on income). This form is an example only. Counsel should be consulted prior to drafting of any instrument.

TRUST AGREEMENT made this 1st day of January, 1976, between JOHN DOE, residing at 100 Main Street, New Town, New York (hereinafter called the "Donor") and SEVENTH NATIONAL BANK, located at Bankers Building, New Town, New York (hereinafter called the "Trustee").

1. The Donor transfers and delivers to the Trustee the property described in the annexed Schedule "A". This property and all receipts of every kind shall be managed and invested by the Trustee as a single fund.

2. (A) The Trustee shall pay to ABC COLLEGE, New Town, New York, in each taxable year of the trust during the trust term a unitrust amount equal to six percent (6%) of the net fair market value of the trust assets valued as of the first day of each taxable year of the trust. The unitrust amount shall be paid in equal quarterly installments (on the last day of March, June, September and December) first from ordinary income, then from capital gain and, to the extent that ordinary income and/or capital gain for the taxable year are not sufficient, from principal. Any income of the trust for a taxable year in excess of the unitrust amount shall be added to principal.

Comment: Instead of this sentence consider providing: "In each taxable year any income in excess of the unitrust amount shall be paid to ABC COLLEGE". Otherwise, "excess" income will be taxable.

Excess income paid to the charity in such case, however, won't be available to the Donor when the trust terminates.

(B) If ABC COLLEGE is not an organization described in each of section 170(c), section 2055(a) and section 2522(a) of the Internal Revenue Code of 1954 (hereinafter called "Code") at the time when any principal or income of the trust is to be distributed to it, the Trustee shall distribute such principal or income to one or more organizations then so described as the Trustee shall select in its sole discretion.

(C) The adjusted basis for Federal income tax purposes of any trust property which the Trustee distributes in kind to ABC COLLEGE during the trust term must be fairly representative of the adjusted basis for such purposes of all trust property available for distribution on the date of distribution.

(C) The trust shall terminate on December 31, 1990 and the Trustee shall distribute all of the then principal and income of the trust, other than any amount due ABC COLLEGE, to my children, ALAN DOE AND BETTY DOE, per stirpes.

3. No additional contributions shall be made to the trust after the initial contribution.

4. If the net fair market value of the trust assets is incorrectly determined by the Trustee for any taxable year, then within a reasonable period after the final determination of the correct value, the Trustee shall pay to ABC COLLEGE in the case of an overvaluation an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.

5. In computing the net fair market value of the trust assets there

shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the trust. All determinations of the trust's net fair market value shall be in accordance with generally accepted fiduciary accounting principles and any United States Treasury regulations and Internal Revenue Service rulings, procedures and guidelines (hereinafter collectively called "Treasury requirements"). In any conflict Treasury requirements shall prevail over generally accepted fiduciary accounting principles and any inconsistent provisions of this Agreement.

6. In addition to the powers conferred upon it by law, the Trustee is authorized to retain the property described in Schedule "A", or may sell the property, invest and reinvest the trust in any kind of property, without diversification as to kind or amount and without regard to the limitations imposed by law on investments. Nothing in this trust instrument shall be construed to restrict the Trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

7. No bond or other security shall be required of the Trustee in any jurisdiction.

8. In creating this trust, Donor intends to obtain the full benefit of any income, gift and estate tax charitable contribution deduction to which he (and his estate) may be entitled under the Code and for ABC COLLEGE'S interest to qualify as a unitrust interest. Accordingly, this trust shall be interpreted, valued, managed and invested consistent with the Donor's intent. Without limiting the generality of the foregoing, the Trustee is prohibited from engaging in any act of self-dealing as defined in section 4941 (d) of the Code, from retaining any excess business holdings as defined in

section 4943(c) of the Code which would subject the trust to tax under section 4943 of the Code, from acquiring or retaining assets which would give rise to a tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If Code section 4942 is deemed applicable to the trust by reason of Code section 508(e) or otherwise, the Trustee shall make distributions at such time and in such manner as not to subject the trust to tax under section 4942 of the Code.

9. No estate, inheritance or other death taxes with respect to the trust shall be allocated to or recoverable from the trust and the Donor agrees not to make an inconsistent direction in his Will.

10. This Agreement is irrevocable.

11. The Trustee shall have the power to amend this Agreement for the sole purpose of complying with the requirements of section 170(f)(2)(B) of the Code, section 2522(c)(2)(B) of the Code, section 2055(e)(2)(B) of the Code and the regulations under those Code sections.

12. This Agreement is made pursuant to, and shall be interpreted in accordance with, the laws of the State of New York. However, in any conflict with the Code and regulations specified in paragraph 11, the Code and regulations shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

(L.S.)
JOHN DOE, DONOR

SEVENTH NATIONAL BANK

By: _____

(Seal)

(Add appropriate acknowledgements and Schedule "A")

NOTE:

If the first or last taxable year is to be a short taxable year include a provision for computing payment in short taxable years. See specimen charitable remainder unitrust for a provision which can be adapted.

SHORT TERM CHARITABLE INCOME (LEAD) TRUST

GUARANTEED ANNUITY INTEREST

Copyright, Conrad Teitell, 1977. Excerpted from "Deferred Giving - Explanation, Specimen Agreements, Reporting Forms")

Comment: No income tax charitable deduction for Donor because he is not considered the owner of the trust (not taxable on income).

TRUST AGREEMENT made this 1st day of January, 1976, between JOHN DOE, residing at 100 Main Street, New Town, New York (hereinafter called the "Donor") and SEVENTH NATIONAL BANK, located at Banker's Building, New Town, New York (hereinafter called the "Trustee").

1. The Donor transfers and delivers to the Trustee the property described in the annexed Schedule "A". This property and all receipts of every kind shall be managed and invested by the Trustee as a single fund.

2. (A) The Trustee shall pay to ABC COLLEGE, New Town, New York during the trust term a guaranteed annuity interest of \$6,000 in each taxable year of the trust. The guaranteed annuity interest shall be paid in equal quarterly installments (on the last day of March, June, September and December) first from ordinary income, then from capital gain and to the extent that ordinary income and/or capital gain for the taxable year are not sufficient, from principal. Any income of the trust for a taxable year in excess of the guaranteed annuity interest shall be added to principal.

Comment: Instead of this sentence consider providing: "In each taxable year any income in excess of the guaranteed annuity interest shall be paid to ABC COLLEGE". Otherwise, "excess" income will be taxable. Excess income paid to the charity in such case, however, won't be available to the Donor when the trust terminates.

(B) If ABC COLLEGE is not an organization described in each of section 170(c), section 2055(a) and section 2522(a) of the Internal Revenue Code of 1954 (hereinafter called "Code") at the time when any principal or income of the trust is to be distributed to it, the trustee shall distribute such principal or income to one or more organizations then so described as the Trustee shall select in its sole discretion.

(C) The adjusted basis for Federal income tax purposes of any trust property which the Trustee distributed in kind to ABC COLLEGE during the trust term must be fairly representative of the adjusted basis for such purposes of all trust properly available for distribution on the date of distribution.

(D) This trust shall terminate on December 31, 1990 and the Trustee shall distribute all of the then principal and income of the trust, other than any amount due ABC COLLEGE to my children, ALAN DOE, and BETTY DOE, per stirpes.

3. No additional contributions shall be made to the trust after the initial contribution.

4. In addition to the powers conferred upon it by law, the Trustee is authorized to retain the property described in Schedule "A", or may sell the property, invest and reinvest the trust in any kind of property, without diversification as to kind or amount and without regard to the limitations imposed by law on investments. Nothing in this trust instrument shall be construed to restrict the Trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

5. No bond or other security shall be required of the Trustee in any jurisdiction.

6. In creating this trust, Donor intends to obtain the full benefit of any income, gift and estate tax charitable contribution deduction to which he (and his estate) may be entitled under the Code and for ABC COLLEGE's interest to qualify as a guaranteed annuity interest. Accordingly, this trust shall be interpreted, valued, managed and invested consistent with the Donor's intent. Without limiting the generality of the foregoing, the Trustee is prohibited from engaging in any act of self-dealing as defined in section 4941 (d) of the Code, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the trust to tax under section 4943 of the Code, from acquiring or retaining assets which would give rise to a tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If Code section 4942 is deemed applicable to the trust by reason of Code section 508(3) or otherwise, the Trustee shall make distributions at such time and in such manner as not to subject the trust to tax under section 4942 of the Code.

7. No estate, inheritance or other death taxes with respect to the trust shall be allocated to or recoverable from the trust and the Donor agrees not to make any inconsistent direction in his Will.

8. This Agreement is irrevocable.

9. The Trustee shall have the power to amend this Agreement for the sole purpose of complying with the requirements of section 170(f)(2)(B) of the Code, section 2522(c)(2)(B) of the Code, section 2055(d)(2)(B) of the Code and the regulations under those sections.

10. This Agreement is made pursuant to, and shall be interpreted in accordance with, the laws of the State of New York. However, in any conflict with the Code and regulations specified in paragraph 9, the Code and regulations shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement
the date first above written.

(L.S.)

JOHN DOE, Donor

SEVENTH NATIONAL BANK

(Seal)

By: _____

(Add appropriate acknowledgements and Schedule "A")

NOTE:

If the first or last taxable year is to be a short taxable year include a provision for computing payment in short taxable years. See specimen charitable remainder annuity trust for a provision which can be adapted.

TESTAMENTARY SHORT TERM CHARITABLE INCOME (LEAD) TRUST

UNITRUST INTEREST

(Copyright, Conrad Teitell, 1977. Excerpted from "Deferred Giving - Explanation, Specimen Agreements, Reporting Forms")

I, JOHN DOE, domiciled in the County and State of New York, declare this to be my Will, hereby revoking all my prior Wills and codicils.

ONE: Such articles of personal or household use or ornament as I may own at my death (including automobiles) and all my unexpired insurance thereon, I bequeath:

- (A) to my nephew HENRY DOE, if he survives me; or
- (B) if my nephew does not survive me, such articles shall be disposed of as part of my residuary estate.

TWO: I bequeath \$500,000 to my nephew HENRY DOE. If my nephew does not survive me this bequest shall lapse.

THREE: I bequeath \$1,000,000 to ABC COLLEGE, New Town, New York for its general purposes.

FOUR: All estate and inheritance taxes payable by reason of my death in respect of all items included in the computation of such taxes, whether passing under this Will or otherwise, shall be paid by my Executor as if such taxes were my debts, without recovery of any part of such tax payments from anyone.

FIVE: I devise and bequeath the residue of the property owned by me at my death, real and personal and wherever situate, to my Trustee IN TRUST, which trust must be funded not later than the end of a reasonable period of administration for settlement of my estate:

- (1) The trust principal and all receipts of every kind shall be managed and invested by the Trustee as a single fund.

(2) (a) The Trustee shall pay to ABC COLLEGE in each taxable year of the trust during the trust term a unitrust amount equal to five percent (5%) of the net fair market value of the trust assets valued annually. The unitrust amount shall be paid in equal quarterly installments (on the last day of each quarter) first from ordinary income, then from capital gain, and to the extent that ordinary income and/or capital gain for the taxable year are not sufficient, from principal. Any income of the trust for a taxable year in excess of the unitrust amount shall be added to principal.

*Comment: Instead of this sentence consider providing:
"In each taxable year any income in excess of the unitrust amount shall be paid to ABC College". Otherwise, "excess" income will be taxable. Excess income paid to the charity in such case, however, won't be available to the remainderman when the trust terminates.*

(b) In the case of a taxable year which is for a period of less than 12 months (other than the taxable year in which the trust terminates) the unitrust amount which must be distributed under paragraph (2) (a) shall be such amount multiplied by a fraction the numerator of which is the number of days in the taxable year of the trust and the denominator of which is 365 (366 if February 29 is a day included in the numerator). If no valuation date occurs before the end of such short taxable year, the trust assets shall be valued as of the last day of such short taxable year. In the case of the taxable year in which the trust terminates the unitrust amount which must be distributed under paragraph (2) (a) shall be such amount multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the date the trust terminates and the denominator of which is 365 (366 if February 29 is a day

included in the numerator). If no valuation date occurs before the end of such period, the trust assets shall be valued as of the last day of such period.

(c) The obligation to pay the unitrust amount shall commence with the date of my death, but payment of the unitrust amount may be deferred from the date of my death to the end of the taxable year of the trust in which occurs the complete funding of the trust. Within a reasonable period after such time, the Trustee shall pay, in the case of an underpayment, or shall receive from ABC COLLEGE, in the case of an overpayment, the difference between any unitrust amounts actually paid to ABC COLLEGE, plus interest on such amounts, compounded annually, and the unitrust amounts payable, plus interest on such amounts compounded annually. The rate of interest shall be the rate then specified by the Treasury for short term unitrust underpayments and overpayments. If Treasury shall not have specified such a rate of interest, the rate of interest shall be the rate then specified in section 6601 of the Internal Revenue Code of 1954 (as that section shall from time to time be amended) for underpayments of income taxes. The unitrust amounts payable shall be retroactively determined by using the taxable year, valuation method and valuation date adopted by the Trustee.

(d) If ABC COLLEGE is not an organization described in each of section 170(c), section 2055(a) and section 2522(a) of the Internal Revenue Code of 1954 (hereinafter called "Code") at the time when any principal or income of the trust is to be distributed to it, the Trustee shall distribute such principal or income to one or more organizations then so described as the Trustee shall select in its sole discretion.

(e) The adjusted basis for Federal income tax purposes of any trust property which the Trustee distributes in kind to ABC COLLEGE during the trust term must be fairly representative of the adjusted basis for such

purposes of all trust property available for distribution on the date of distribution.

(3) The trust shall terminate twenty years after the date of my death and the Trustee shall distribute all of the then principal and income of the trust, other than any amount due to ABC COLLEGE to my nephew, HENRY DOE, and if he is not then living, to his issue per stirpes and failing such issue to ABC COLLEGE.

(4) No additional contributions shall be made to this trust.

(5) If the net fair market value of the trust assets is incorrectly determined by the Trustee for any taxable year, then within a reasonable period after the final determination of the correct value, the Trustee shall pay to ABC COLLEGE in the case of an undervaluation or shall receive from ABC COLLEGE in the case of an overvaluation an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.

(6) In computing the net fair market value of the trust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the trust. All determinations of the trust's net fair market value shall be in accordance with generally accepted fiduciary accounting principles and any United States Treasury regulations and Internal Revenue Service rulings, procedures and guidelines (hereinafter collectively called "Treasury requirements"). In any conflict Treasury requirements shall prevail over generally accepted fiduciary accounting principles and any inconsistent provisions of this Will.

(7) In creating this trust, I intend to obtain the full benefit of any estate tax charitable deduction to which my estate may be

entitled under the Code and for ABC COLLEGE's interest to qualify as a unitrust interest. Accordingly, this trust shall be interpreted, valued, managed and invested consistent with my intent. Without limiting the generality of the foregoing, the Trustee is prohibited from engaging in any act of self-dealing as defined in section 4941(d) of the Code, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the trust to tax under section 4943 of the Code, from making any investments which would subject the trust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If section 4942 of the Code is deemed applicable to the trust by reason of section 508(e) of the Code or otherwise, the Trustee shall make distributions at such time and in such manner as not to subject the trust to tax under section 4942 of the Code.

(8) The Trustee shall have the power to amend this trust for the sole purpose of complying with the requirements of section 2055(e)(2)(B) of the Code and the regulations thereunder.

SIX: If I am not survived by my nephew HENRY DOE or any of his issue, I give my residuary estate to ABC COLLEGE.

SEVEN: I name XYZ TRUST COMPANY, One XYZ Plaza, New York, New York, as Executor of and Trustee under this Will and I direct that no bond or other security shall be required of my Executor and Trustee in any jurisdiction.

EIGHT: In addition to all powers now or hereafter conferred upon it by law, I empower my Executor and my Trustee:

(A) to acquire by purchase, by exercise of options, or otherwise, and to retain so long as it deems advisable, any kind of real and personal property or undivided interests therein without diversification as to kind or amount and without regard to the limitations imposed by law on investments, except that the Trustee may not retain or invest in any property which would in any way result in the denial of any charitable deduction to which my estate may be entitled under the Internal Revenue Code of 1954 (or any future United States Internal Revenue law);

- (B) to sell for cash or on credit (at public or private sale), exchange, grant options to purchase (without regard to statutory restrictions), or otherwise dispose of any real or personal property upon such terms as it deems advisable;
- (C) to make distributions (including distributions to itself as Trustee) in kind or in money, or partly in each, in shares which may be composed differently, provided that all determinations of my Executor and Trustee as to distribution in kind must be made equitably;
- (D) to delegate discretionary powers to agents, including voting Trustees, proxies, and committees in respect of corporate reorganizations, consolidations, mergers, recapitalizations, refinancings, or other corporate transactions;
- (E) to waive, reduce, extend the time of payment of, or compromise, claims in favor of or against my estate or the trust; and
- (F) to borrow for any purpose which in the opinion of my fiduciary will facilitate the administration of my estate or the trust, and pledge or mortgage property as security for any such loans.
- (G) Nothing herein shall be interpreted as allowing my Trustee to commit any act prohibited in Article Five.

IN WITNESS WHEREOF, I have signed and sealed this Will consisting of _____ pages, each identified by my signature, this _____ day of _____ One thousand nine hundred and _____

(L.S.)

On the date last above written, while we were all in his presence and in the presence of each other, JOHN DOE subscribed the foregoing, declared it to be his Will and requested us to sign as witnesses thereof. Immediately thereafter, while we all remained in his presence and in the presence of each other, this clause was read aloud and we signed as such witnesses.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Gift of Residence
Regulations and tables

REGULATIONS AND TABLES FOR GIFTS OF
CHARITABLE REMAINDER IN RESIDENCES AND FARMS

§ 1.170A-12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

(a) *In general.* (1) Section 170(f)(4) provides that, in determining the value of a remainder interest in real property for purposes of section 170, depreciation and depletion of such property shall be taken into account. Depreciation shall be computed by the straight line method and depletion shall be computed by the cost depletion method. Section 170(f)(4) and this section apply only in the case of a contribution, not made in trust, of a remainder interest in real property made after July 31, 1969, for which a deduction is otherwise allowable under section 170.

(2) In the case of the contribution of a remainder interest in real property consisting of a combination of both depreciable and nondepreciable property, or of both depletable and nondepletable property, and allocation of the fair market value of the property at the time of the contribution shall be made between the depreciable and nondepreciable property, or the depletable and nondepletable property, and depreciation or depletion shall be taken into account only with respect to the depreciable or depletable property. The expected value at the end of its "estimated useful life" (as defined in paragraph (d) of this section) of that part of the remainder interest consisting of depreciable property shall be considered to be nondepreciable property for purposes of the required allocation. In the case of the contribution of a remainder interest in stock in a cooperative housing corporation (as defined in section 216(b)(1)), an allocation of the fair market value of the stock at the time of the contribution shall be made to reflect the respective values of the depreciable and nondepreciable property underlying such stock, and depreciation on the depreciable part shall be taken into account for purposes of valuing the remainder interest in such stock.

(3) If the remainder interest that has been contributed follows only one life, the value of the remainder interest shall be computed under the rules contained in paragraph (b) of this section. If the remainder interest that has been contributed follows a term for years, the value of the remainder interest shall be computed under the rules contained in paragraph (c) of this section. If the remainder interest that has been contributed is dependent upon the continuation or the termination of more than one life or

upon a term certain concurrent with one or more lives, the provisions of paragraph (e) of this section shall apply. In every case where it is provided in this section that the rules contained in paragraph (d) of § 25.2512-9 of this chapter (Gift Tax Regulations) apply, such rules shall apply notwithstanding the general effective date for such rules contained in paragraph (a) of such section. In some cases, a reduction in the amount of a charitable contribution of a remainder interest, after the computation of its value under section 170(f)(4) and this section, may be required. See section 170(e) and § 1.170A-4.

(b) *Valuation of a remainder interest following only one life—(1) General rule.* The value of a remainder interest in real property following only one life shall be determined under the rules provided in paragraph (d) of § 25.2512-9 of this chapter (Gift Tax Regulations), using Table A(1) or A(2) (whichever is appropriate) contained in paragraph (f) of such section. However, if any part of the real property is subject to exhaustion, wear and tear, or obsolescence, in valuing the remainder interest in that part the factor determined under subparagraph (2) of this paragraph shall be subtracted from the appropriate figure in column 4 of Table A(1) or A(2) in paragraph (f) of § 25.2512-9 of this chapter (Gift Tax Regulations) before such figure is used in paragraph (d) of such section. Further, if any part of the property is subject to depletion of its natural resources, such depletion shall be taken into account in determining the value of the remainder interest.

(2) *Computation of depreciation adjustment factor.* Computations under this subparagraph are based upon Tables C(1) and C(2), contained in paragraph (f) of this section, which reflect interest at the rate of 6 percent a year compounded annually, life contingencies determined (as to each male and female life involved) from the values of 1x that are set forth in columns 2 and 3, respectively of Table LN of paragraph (f) of § 20.2031-10 of this chapter (Estate Tax Regulations), and depreciation on a straight line basis. Table C(1) is to be used when the person upon whose life the interest is based is a male, and Table C(2) is to be used when such person is a female. The factor determined under this subparagraph is the amount determined by dividing (i) the difference between (a) the R-factor in column 2 of Table C(1) or C(2) (whichever is appropriate) opposite the initial age of the life

tenant in column 1 and (b) the R-factor in column 2 of such table opposite the terminal age in column 1, by (iii) the product of (a) the estimated useful life of the depreciable property and (b) the D-factor in column 3 of such table opposite the initial age of the life tenant in column 1. For purposes of this subdivision, the "initial age" of a life tenant is his age at his birthday nearest the date of the contribution of the remainder interest, and the "terminal age" is 110 or the sum of the initial age of the life tenant and the estimated useful life of the depreciable property, if that sum is less than 110. The factor determined under this subdivision is carried to the fifth decimal place.

(3) *Example.* In 1972 A, who is 62, donates to Y University a remainder interest in his personal residence, consisting of a house and land, subject to a reserved life estate in himself. At the time of the gift the land has a value of \$7,000 and the house has a value of \$25,000 with an estimated useful life of 45 years, at the end of which the value of the house is expected to be \$5,000. The portion of the property considered to be depreciable is \$20,000 (the value of the house (\$25,000) less its expected value at the end of 45 years (\$5,000)). The portion of the property considered to be nondepreciable is \$12,000 (the value of the land at the time of the gift (\$7,000) plus the expected value of the house at the end of 45 years (\$5,000)). The initial age of the life tenant is 62 and the terminal age is 107 (62 plus 45). The R-factors for ages 62 and 107 are .04347692 and .004154752, respectively, and the D-factor for age 62 is .1896855. The adjustment factor computed under subparagraph (2) of this paragraph is .011521 (.98347092 less .004154752, divided by 45 x .1896855). The figure in column 4 of table A(1) of paragraph (f) of § 25.2512-9 opposite age 62 in column 1 is 0.47679. The value of the entire remainder interest is, therefore, \$7,231.60 (\$20,000 times (0.47679 less 0.11521)) plus \$5,721.48 (.047679 times \$12,000), or \$12,953.08.

(c) *Valuation of a remainder interest following a term for years.* The value of a remainder interest in real property following a term for years shall be determined under the rules provided in paragraph (d) of § 25.2512-9 of this chapter (Gift Tax Regulations) using Table B provided in paragraph (f) of such section. However, if any part of the real property is subject to exhaustion, wear and tear, or obsolescence, in valuing the remainder interest in that part the value of such part is adjusted by subtracting from the value of such part the amount determined by multiplying such value by a fraction, the numerator of which is the number of years in the term or, if less, the estimated useful life of the property, and

Example. In 1972, B donates to Z University a remainder interest in his personal residence, consisting of a house and land, subject to a 20 year term interest provided for his sister. At such time the house has a value of \$60,000, and an expected useful life of 45 years, at the end of which time it is expected to have a value of \$10,000, and the land has a value of \$4,000. The value of the portion of the property considered to be depreciable is \$50,000 (the value of the house (\$60,000) less its expected value at the end of 45 years (\$10,000)), and this is multiplied by the fraction $20/45$. The product, \$22,222.22, is subtracted from \$68,000, the value of the entire property, and the balance, \$45,777.78, is multiplied by the factor .311805 (see Table B of § 25.2512-9(f)). The result, \$14,273.74, is the value of the remainder interest in the property.

shall be an asset depreciation period selected by the taxpayer that is within the permissible asset depreciation range for the relevant asset guideline class established pursuant to § 1.167(a)-11(b)(4)(ii). For purposes of the preceding sentence, such period, range, and class shall be those which are in effect at the time that the contribution of the remainder interest was made. At the option of the taxpayer, in the case of property contributed before January 1, 1971, the estimated useful life for purposes of this section, shall be the guideline life provided in Revenue Procedure 62-21 for the relevant asset guideline class.

(2) In the case of the valuation of a remainder interest following two lives, the special factor may be obtained through use of the following formula:

Where:
 n = Estimated years of useful life.
 v = $1/1.06$.
 x and y = Ages of the life tenants.
 Lx and Ly = Number of persons living at ages x and y as set forth in Table LN of § 20.2031-10(f) of this chapter (Estate Tax Regulations).

ests in that part of any property which is depletable cannot be valued on a purely actuarial basis, special factors will not be furnished with respect to such part. Requests should be forwarded to the Commissioner of Internal Revenue, Attention: E.A.G, Washington, D.C. 20224.

(f) *Tables for computation of depreciation adjustment factor.* The following tables shall be used in the application of the provisions of paragraph (b) of this section:

Title 26—Internal Revenue

TABLE C(1)—TABLE SINGLE LIFE, MALE, 6 PERCENT
SHOWING COMMUTATION FACTORS FOR REDUCING
ASSURANCES

(1) Age	(2) R factors, male ($R_x - 0.5 M_x$)	(3) D factors, male (D_x)
0	145,253.043	100000
1	140373.057	91591.15
2	136989.019	86250.44
3	133733.646	81275.15
4	130561.352	76606.55
5	127451.464	72217.27
6	124391.771	68085.09
7	121374.816	64182.64
8	118394.852	60525.84
9	115446.949	57070.85
10	112526.924	53815.30
11	109631.234	50747.02
12	106757.944	47853.18
13	103907.248	45122.01
14	101081.810	42541.39
15	98286.156	40102.09
16	95525.472	37795.55
17	92804.488	35615.70
18	90127.058	33555.58
19	87495.905	31610.59
20	84912.301	29774.55
21	82377.175	28041.83
22	79891.020	26406.83
23	77453.310	24865.77
24	75062.105	23414.31
25	72714.179	22048.89
26	70405.571	20764.57
27	68132.728	19556.04
28	65892.891	18418.19
29	63683.989	17346.49
30	61504.811	16336.06
31	59354.718	15383.45
32	57233.131	14485.26
33	55139.672	13638.15
34	53074.137	12839.15
35	51036.460	12085.34
36	49026.815	11373.90
37	47045.579	10702.30
38	45093.283	10068.11
39	43170.633	9469.050
40	41278.574	8902.830
41	39418.241	8367.528
42	37590.819	7861.360
43	35797.513	7382.465
44	34039.536	6929.893
45	32318.082	6501.606
46	30634.317	6096.438
47	28989.362	5713.143
48	27384.507	5350.109
49	25821.319	5006.012
50	24301.552	4679.603
51	22827.009	4369.957
52	21399.308	4076.410
53	20019.711	3799.448
54	18689.039	3535.657
55	17407.687	3287.543
56	16175.805	3053.387
57	14993.447	2832.462
58	13860.746	2623.802
59	12778.075	2426.474
60	11745.9258	2239.835
61	10764.7296	2063.405
62	9831.7092	1896.685
63	8955.8177	1739.959
64	8127.7362	1592.366
65	7349.8971	1453.778

(1) Age	(2) R factors, male ($R_x - 0.5 M_x$)	(3) D factors, male (D_x)
66	6621.5547	1323.833
67	5941.8017	1202.207
68	5309.5643	1088.588
69	4723.5741	982.7307
70	4182.3827	884.3534
71	3684.4221	793.1111
72	3228.0379	708.6716
73	2811.5265	630.6817
74	2433.1585	558.7943
75	2091.1854	492.6830
76	1783.8019	432.0985
77	1509.1690	376.7716
78	1265.3907	326.3874
79	1050.6431	280.6000
80	863.1339	239.1395
81	701.1091	201.6965
82	562.8164	168.1047
83	446.3416	138.3996
84	349.49534	112.6418
85	269.88244	90.72679
86	205.22466	72.09128
87	153.47332	56.44965
88	112.70669	43.48583
89	81.16860	32.87343
90	57.27246	24.32487
91	39.57641	17.59676
92	26.77844	12.44115
93	17.742117	8.592310
94	11.514197	5.797372
95	7.321634	3.855649
96	4.555.40	2.475257
97	2.777.17	1.566527
98	1.6526304	9687343
99	9599624	5847336
100	5436795	3441323
101	2998713	1972539
102	16086232	1099943
103	08378735	0596023
104	04227156	03134754
105	02056792	01590400
106	009564003	007892235
107	004154752	003769082
108	001574519	001739921
109	0003761161	0007741419
110	0	0

TABLE C(2)—TABLE SINGLE LIFE, FEMALE, 6
PERCENT, SHOWING COMMUTATION FACTORS FOR
REDUCING ASSURANCES

(1) Age	(2) R factors, female ($R_x - 0.5 M_x$)	(3) D factors, female (D_x)
0	112147.489	100000
1	108626.810	92211.32
2	106273.251	86853.84
3	104030.084	81861.20
4	101854.413	77192.89
5	99739.210	72761.28
6	97644.644	68606.76
7	95594.720	64694.76
8	93569.927	61008.42
9	91569.098	57534.90
10	89547.549	54260.90
11	87622.782	51174.25
12	85671.049	48263.66
13	83737.726	45517.71
14	81817.164	42926.64
15	79912.068	40481.39
16	78023.642	38173.06
17	76153.112	35994.50

(1) Age	(2) R factors, female ($R_x - 0.5 M_x$)	(3) D factors, female (D_x)
18	74301.326	33938.50
19	72468.804	31998.62
20	70655.459	30168.98
21	68860.981	28443.08
22	67085.184	26815.04
23	65327.845	25279.41
24	63588.577	23831.21
25	61856.973	22485.26
26	60162.732	21176.94
27	58475.638	19961.65
28	56805.449	18815.51
29	55152.082	17734.06
30	53515.602	16713.88
31	51896.180	15751.05
32	50294.084	14842.59
33	48709.496	13985.34
34	47142.594	13176.48
35	45593.548	12413.21
36	44062.584	11692.90
37	42549.965	11013.09
38	41056.041	10371.35
39	39581.280	9765.438
40	38126.196	9193.330
41	36691.326	8653.050
42	35277.267	8142.748
43	33884.615	7660.777
44	32513.914	7205.585
45	31165.654	6775.709
46	29840.273	6369.767
47	28538.255	5986.260
48	27260.122	5623.992
49	26006.440	5281.599
50	24777.838	4957.993
51	23574.959	4652.052
52	22398.448	4362.830
53	21248.818	4089.577
54	20126.375	3831.603
55	19031.217	3588.229
56	17963.359	3358.600
57	16922.8874	3141.845
58	15910.0402	2936.994
59	14925.3392	2743.115
60	13969.4983	2559.440
61	13043.3232	2385.367
62	12147.5668	2220.479
63	11282.8427	2064.402
64	10449.5982	1916.814
65	9648.1181	1777.371
66	8878.5764	1645.693
67	8141.1407	1521.271
68	7436.0588	1403.608
69	6763.6937	1292.184
70	6124.4984	1186.608
71	5518.8903	1086.657
72	4947.1654	992.1402
73	4409.5306	902.7950
74	3906.1530	818.3610
75	3437.1458	739.6324
76	3002.4521	663.6012
77	2601.7796	593.2002
78	2234.7447	527.1455
79	1901.0012	463.1352
80	1600.1911	407.0381
81	1331.8528	352.7169
82	1095.2981	302.3326
83	889.3654	256.2602
84	712.0460	214.9291
85	561.1132	178.4806
86	434.3257	145.7751
87	329.80943	116.8797
88	245.40166	91.66187
89	178.71726	70.65096
90	127.27022	53.67590

(1) Age	(2) R factors, female ($\bar{R}$, 0.5 M.)	(3) D factors, female ($\bar{D}_2$)
91	88.57159	38.89263
92	60.22702	27.76510
93	40.02735	19.30423
94	26.01874	13.07931
95	16.553384	8.649357
96	11.508176	5.596276
97	6.278518	3.541739
98	3.736409	2.190198
99	2.170366	1.322016
100	1.2291974	.7780440
101	.6779749	.4459687
102	.3636914	.2486846
103	.1894337	.1347540
104	.09557119	.07087322
105	.04650173	.03613801
106	.02162313	.01784345
107	.009393422	.008521467
108	.003559707	.003931504
109	.0008503560	.001750247
110	0	0

Remainder Trust Comparison

REMAINDER INTEREST COMPUTATION WORKSHEET FOR GIFT OF RESIDENCE

(Facts taken from Regulation example)

Donor: Thornton Moosematt Total Value of Gift \$ 32,000 Gift Date / / 72

Life Tenant: SAME Sex M Age 62

1. VALUE OF LAND	\$ <u>7000</u>
2. VALUE OF HOUSE	\$ <u>25000</u>
3. ESTIMATED USEFUL LIFE OF HOUSE	<u>45</u> YRS
4. VALUE OF HOUSE AT END OF USEFUL LIFE	\$ <u>5000</u>
5. DEPRECIABLE PORTION OF GIFT (Line 2 minus Line 4)	\$ <u>20,000</u>
6. NON-DEPRECIABLE PORTION OF GIFT (Line 1 plus Line 4)	\$ <u>12,000</u>
7. INITIAL AGE OF LIFE TENANT (Age at date of gift)	<u>62</u> YRS
8. TERMINAL AGE (Line 7 plus Line 3, but not more than 110)	<u>107</u> YRS
9. R-FACTOR AT INITIAL AGE, TABLE C (1) or (2)*	<u>9834.7092</u>
10. R-FACTOR AT TERMINAL AGE, TABLE C (1) or (2)*	<u>.004154752</u>
11. D-FACTOR AT INITIAL AGE, TABLE C (1) or (2)*	<u>1896.886</u>
12. DIFFERENCE IN R-FACTORS (Line 9 minus Line 10)	<u>9834.7050</u>
13. LINE 11 MULTIPLIED BY LINE 3	<u>85359.825</u>
14. LINE 12 DIVIDED BY LINE 13	<u>.11521</u>
15. REMAINDER FACTOR, ANNUITY TABLE A (1) or (2)**	<u>.47679</u>
16. LINE 15 MINUS LINE 14	<u>.36158</u>
17. REMAINDER, DEPRECIABLE PORTION (Line 16 x Line 5)	\$ <u>7231.60</u>
18. REMAINDER, NON-DEPRECIABLE PORTION (Line 15 x Line 6)	\$ <u>5721.48</u>
19. REMAINDER INTEREST IN TOTAL GIFT (Line 17 plus Line 18)	\$ <u>12953.08</u>

* See single life commutation tables, page 305

** See single life annuity tables, page 223 ff.

REMAINDER INTEREST COMPUTATION WORKSHEET FOR GIFT OF RESIDENCE

Donor: _____ Total Value of Gift \$ _____ Gift Date ____ / ____ / ____

Life Tenant: _____ Sex _____ Age _____

1. VALUE OF LAND \$ _____
2. VALUE OF HOUSE \$ _____
3. ESTIMATED USEFUL LIFE OF HOUSE _____ YRS.
4. VALUE OF HOUSE AT END OF USEFUL LIFE \$ _____
5. DEPRECIABLE PORTION OF GIFT (Line 2 minus Line 4) \$ _____
6. NON-DEPRECIABLE PORTION OF GIFT (Line 1 plus Line 4) \$ _____
7. INITIAL AGE OF LIFE TENANT (Age at date of gift) _____ YRS.
8. TERMINAL AGE (Line 7 plus Line 3, but not more than 110) _____ YRS.
9. R-FACTOR AT INITIAL AGE, TABLE C (1) or (2)* _____
10. R-FACTOR AT TERMINAL AGE, TABLE C (1) or (2)* _____
11. D-FACTOR AT INITIAL AGE, TABLE C (1) or (2)* _____
12. DIFFERENCE IN R-FACTORS (Line 9 minus Line 10) _____
13. LINE 11 MULTIPLIED BY LINE 3 _____
14. LINE 12 DIVIDED BY LINE 13 _____
15. REMAINDER FACTOR, ANNUITY TABLE A (1) or (2)** _____
16. LINE 15 MINUS LINE 14 _____
17. REMAINDER, DEPRECIABLE PORTION (Line 16 x Line 5) \$ _____
18. REMAINDER, NON-DEPRECIABLE PORTION (Line 15 x Line 6) \$ _____
19. REMAINDER INTEREST IN TOTAL GIFT (Line 17 plus Line 18) \$ _____

* See single life commutation tables, page 305

** See single life annuity tables, page 223 ff.

COMPARISON OF DEDUCTIBLE CHARITABLE REMAINDER GIFTS

	Remainder Interest In Personal Residence or Farm	Charitable Remainder Trust		Pooled Income Fund Trust
		Annuity Trust	Unitrust	
A. Remainderman	170(c)	170(c)	170(c)	170(b)(1)(A)(i) through (vi)
B. Income Beneficiaries	No limitation	Individuals in being at time of transfer	Individuals in being at time of transfer	Individuals in being at time of transfer
C. Period	No limitation	Lives of beneficiaries or term of 20 years	Lives of beneficiar- ies or term of 20 years	Lives of beneficiaries
D. Payment to Beneficiaries	Not Applicable	Must receive not less often than annually Fixed amount which was not less than 5% of fair market value of assets at time of transfer	Must receive not less often than annually. Fixed percentage (not less than 5%) of fair market value of assets computed annually. Without affecting computation of the deduction the donor may take income only if it is less than the percentage and in years where the income exceeds the per- centage, that income may or may not be dis- tributed to make up for past deficiencies	Must receive not less often than annually. Average rate of return earned by trust.

1. IRC 664(d)(1)(B)
2. IRC 642(c)(5)(A)
3. IRC 664(d)(1)(A)
4. IRC 642(c)(5)(A)
5. IRC 664(d)(1)(A)

6. IRC 642(c)(5)(A)
7. IRC 664(d)(1)(A)
8. IRC 664(d)(2)(A)
9. IRC 664(d)(3)
10. IRC 642(c)(5)(F)
- 10a. IRC 170(f)(3)

Prepared by John Holt Myers
Williams, Myers and Quiggle

	Remainder Interest In Personal Residence or <u>Farm</u>	Charitable Remainder Trust		Pooled Income Fund <u>Trust</u>
		<u>Annuity Trust</u>	<u>Unitrust</u>	
E. Taxability of Payments	Not Applicable	No invasion for the benefit of benefici- aries permitted Ordinary income to extent of income earned in year or accumulated; then short-term capital gain to extent of in- come earned in year or accumulated; then long-term capital gain to extent of income earned in year or accumulated; then corpus	No invasion for the benefit of benefici- aries permitted Ordinary income to extent of income earned in year or accumulated; then short-term capital gain to extent of in- come earned in year or accumulated; then long-term capital gain to extent of income earned in year or accumulated; then corpus	No invasion for the benefit of benefici- aries permitted Ordinary income
F. Taxability of Trust	Not Applicable	Not taxable unless trust has unrelated business income	Not taxable unless trust has unrelated business income	Taxable on short-term capital gains (ordinary income deducted as distributable)

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11. IRC 664(b)
 12. IRC 642(c)(5)(F)
 - 12a. Annuity Trust - Proposed Regulations 1.664-2(a)(4);
Unitrust - Proposed Regulations 1.664-3(a)(4);
Pooled Income Fund Trust - Regulations 1.642(c)-5(b)(1)
 13. IRC 642(c)
 14. Long-term gains permanently set aside for charitable remainderman deductible; IRC 642(c)(3)

	Remainder Interest In Personal Residence or <u>Farm</u>	Charitable Remainder Trust		Pooled Income Fund <u>Trust</u>
		<u>Annuity Trust</u>	<u>Unitrust</u>	
G. Investments	Not Applicable	Should be separately invested Trustee cannot be prohibited from investing in such a way as to realize income or gain currently	Should be separately invested Trustee cannot be prohibited from investing in such a way as to realize income or gain currently	Must be commingled only with similar gifts Must prohibit investment in tax exempt securities
H. Trustee	Not Applicable	No statutory limitations	No statutory limitations	Trust must be "maintained" by charitable remainder- man which must have power to remove and substitute trustee Neither donor nor income beneficiary may be a trustee
I. Additional Contributions	Not Applicable	Not permitted	Permitted subject to inclusion of required provisions in governing instru- ment	No apparent restrictions

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15. IRC 642(c)(5)(B)
 16. To avoid claim of association taxable as corporation; IRC 7701(a)(3)
 17. Proposed Regulations 1.664-1(a)(6)
 18. IRC 642(c)(5)(C)
 19. IRC 642(c)(5)(E)
 20. Regulations 1.642(c)-5(b)(5)
 21. Proposed Regulations 1.664-2(b)
 21a. Proposed Regulations 1.664-3(b)

Revenue Ruling Summaries

1969-1978

	Remainder Interest In Personal Residence or <u>Farm</u>	Charitable Remainder Trust		Pooled Income Fund <u>Trust</u>
		<u>Annuity Trust</u>	<u>Unitrust</u>	
J. Status	Not Applicable	Subject to private foundation rules with certain minor exceptions	Subject to private foundation rules with certain minor exceptions	Subject to private foundation rules with certain minor exceptions
K. Funding with Appreciated Property	Not Applicable	No gain realized	No gain realized	No gain realized
L. Computation of Deduction	Discounted at 6% with depreciation on a straight-line basis	Based on percentage chosen (5% or over) Estate tax tables	Based on percentage chosen (5% or over) Tables in regulations and publications	Based on highest rate of return realized by trust for any of 3 preceding years or 6% if new fund Tables in regulations and publications
M. Limitation	Remainder treated as a gift to the charitable remainderman. If remainderman a "public charity" gift subject to 50% limitation (30% to extent appreciated long-term property) and carryover in case of both corporations and individuals	Remainder treated as a gift to the charitable remainderman. If remainderman a "public charity" gift subject to 50% limitation (30% to extent appreciated long-term property) and carryover in case of both corporations and individuals	Remainder treated as a gift to the charitable remainderman. If remainderman a "public charity" gift subject to 50% limitation (30% to extent appreciated long-term property) and carryover in case of both corporations and individuals	Remainder treated as a gift to the charitable remainderman. If remainderman a "public charity" gift subject to 50% limitation (30% to extent appreciated long-term property) and carryover in case of both corporations and individuals

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22. Section 4947(a)(2) and (b)
 23. Regulations 1.642(c)-5(a)(3)
 24. Revenue Ruling 55-275, 1955-1 C.B. 295 but see Revenue Ruling 60-370, 1960-2 C.B. 203
 25. Proposed Regulations 1.664-2(d); Regulations 20.2031-10
 26. IRS Publications 723 and 723B
 27. IRC 170(b)(1)(A)
 28. Alice Tully, 48 T.C. 235; Revenue Ruling 57-507, 1957-2 C.B. 511
 29. IRC 642(c)(5)
 30. IRC 170(f)(4)

Section 170:

1. Rev. Rul 69-63, 1969-1 C.B. 63.

The transfer of a coin collection to a trust with a retained life interest in exhibition fees and remainder to charities is a transfer of a future interest in tangible personal property for which a contribution deduction is not allowable in the year of transfer.

2. Rev. Rul. 69-276, 1969-1 C.B. 64.

A grantor may claim a contribution, subject to the additional 10 percent limitation, for securities transferred to a section 170(b)(1)(A) organization, even though he may later require the organization to distribute cash equivalent to their market value to a similar organization.

3. Rev. Rul 69-312, 1969-1 C.B. 64.

Computation of the deductible contribution where a taxpayer transfers funds to a charitable organization for investment with income required to be accumulated until he is age 65 and then paid to him for life and then to his wife for life.

4. Rev. Rul 72-419, 1972-2, C.B. 104.

The present value of an undivided portion of a taxpayer's entire remainder interest in property of a trust that is contributed to a charitable organization is deductible in the manner and to the extent provided in section 170 of the Code.

5. Rev. Rul 73-1, 1973-1, C.B. 117.

The amount paid in excess of the values of an annuity purchased from a charitable organization is not deductible as a charitable contribution if the transferor retains the power to require repayment of the entire amount prior to the annuity commencement date.

Section 642:

1. Rev. Rul 71-285, 1971-2, C.B. 248.

Where a trust instrument directs the trustee to make payments to charitable beneficiaries but does not indicate whether payments are to be made from income or principal, the grantor's intent is interpreted and governed by the requirements of local law.

2. Rev. Rul 71-196, 1972-1, C.B. 194.

Sample provisions for inclusion in Declarations of Trusts and Instruments of Transfer that may be used to satisfy section 642(c)(5) of the Code are set forth to serve as a guide in developing governing instruments for pooled income funds.

3. Rev. Rul 73-95, 1973-1 C.B. 322.

An amount set aside for charitable purposes, is not deductible under section 642(c) of the Code if the trustee has discretionary power under the will to allocate gains from the sale or other disposition of property, constituting principal, to income or principal.

4. Rev. Rul 74-247, 1974-1 C.B. 152.

The investment of moneys of pooled income funds by a bank, as trustee of such funds, in the bank's common trust fund, will not disqualify the funds under section 642(c)(5) of the Code provided the common trust fund does not contain or acquire any tax-exempt securities.

5. Rev. Rul 75-116, 1975-1, C.B. 182.

The requirement of section 642(c)(5) of the Code that a pooled income fund must be maintained by a public charity will not be met by an investment fund established by a bank trustee that controls the fund's investment policies and assets, because the trust agreement does not authorize the public charity remainderman to remove the trustee and appoint a new trustee.

6. Rev. Rul 76-196, 1976-1 C.B. 178.

A fund established by a charitable organization whose governing instrument provides for termination of a beneficiary's income interest at the time of the last payment preceding the beneficiary's death and for an amount to be severed from the fund equal to the value of the property on which the income interest is based on the valuation date immediately following the beneficiary's death, with quarterly valuations dates beginning March 15, does not qualify as a pooled income fund.

7. Rev. Rul 76-445, I.R.B. 1976-46, 18.

A fund established by a charitable organization to be used exclusively for the investment of properties in which it has remainder interests, whose governing instrument requires that income accumulated during the period of administration of a donor's estate and payable to the fund under state law be paid to the life income beneficiary without being included in determining the beneficiary's units of participation in the fund, will not qualify as a pooled income fund.

Section 664:

1. Rev. Rul 73-571, 1973-2, C.B. 213.

A bank that, in its capacity as trustee of a trust treated as a charitable remainder unitrust, invests the assets of the trust in common trust funds maintained by the bank will not jeopardize the exempt status of the charitable remainder unitrust or the donor's charitable contribution deduction by such investment.

2. Rev. Rul 73-610, 1973-2, C.B. 213.

An irrevocable trust to which grantor contributed income producing assets and an antique collection to be retained by the sole life income beneficiary during her lifetime does not qualify as a charitable remainder annuity trust under section 664 of the Code.

3. Rev. Rul 74-19, 1974-1, C.B. 155.

A trust, otherwise qualifying as a charitable remainder unitrust, whose governing instrument provides that a portion of a specified trustee's fee shall be charged against the "unitrust amount" does not meet the "fixed percentage" requirement of section 1.664-3 of the regulations even though the "unitrust amount" may never be less than five percent of the net fair market value of the trust assets valued annually.

4. Rev. Rul 74-39, 1974-1, C.B. 156.

A trust otherwise qualifying as a charitable remainder unitrust whose governing instrument provides an income interest to an individual, or in the event of his death to a successor beneficiary or his heirs for a term of 20 years, qualifies as a charitable remainder unitrust.

5. Rev. Rul 74-149, 1974-1, C.B. 157.

A trust, the governing instrument of which otherwise satisfies the unitrust requirements of section 664 of the Code and which reserves in the donor the rights to terminate by will the spouse's life interest and to make inter vivos and testamentary additions, qualifies as a charitable remainder unitrust.

6. Rev. Rul 74-386, 1974-2, C.B. 189.

A trust otherwise qualifying as a charitable remainder trust whose governing instrument provides that installment payment to named individuals having successive life interests shall terminate with the regular payment next preceding the date of death of each such beneficiary complies with the requirements of section 664 of the Code and sections, 1.664-2(a)(5) and 1.664-3(a)(5) of the regulations thereunder.

7. Rev. Rul 74-481, 1974-2, C.B. 190.

The application of section 1.664-3(b) of the regulations is illustrated by examples of the computation of the unitrust amount payable by a charitable remainder unitrust that receives an additional contribution during any full taxable year or in a taxable year shortened by the death of the sole life beneficiary.

8. Rev. Rul 76-7, 1976-1

A special power of appointment, granted the income beneficiary by the governing instrument of an otherwise qualifying charitable remainder trust, to designate the qualifying charitable organizations as remaindermen for the charities otherwise designated in the trust instrument is not a power that disqualifies the trust.

9. Rev. Rul. 76-8, 1976-1, C.B. 179.

A reserved power retained by the grantor of an inter vivos trust, otherwise qualifying as a charitable remainder trust, to substitute another charity as a remainderman for the charity designated in the trust instrument is not a power that disqualifies the trust.

10. Rev. Rul. 76-270, I.R.B. 1976-29, 10.

An otherwise qualifying charitable remainder trust that makes distributions to a second trust whose only function is to receive and administer those distributions for the benefit of the named individual lifetime beneficiary of the charitable remainder trust is considered to have made the distributions directly to the individual and qualifies as a charitable remainder trust.

11. Rev. Rul 76-280, I.R.B. 1976-30, 11.

The governing instrument of an otherwise qualifying charitable remainder trust, providing for designated payments of two beneficiaries and the balance of the specified distribution to a third beneficiary with any deceased beneficiary's share to be retained by the trust until its distribution to the remainderman, makes it possible for the designated annual payment to fail to meet the requirements for a charitable remainder annuity trust or a charitable remainder unitrust and the trust fails to qualify as a charitable remainder trust.

12. Rev. Rul 76-309, I.R.B. 1976-33, 9.

The contingent provision in a trust instrument, providing that all in the trust assets revert to the grantors in the event the Service disallows a charitable deduction for the value of the remainder interest, precludes the trust from the meeting the definition of a charitable remainder annuity trust and the value of the remainder interest contributed to the trust is not deductible as a charitable contribution; Rev. Rul 60.276 distinguished.

13. Rev. Rul 76-310, I.R.B. 1976-33,9.

A provision of the governing instrument of an otherwise qualifying charitable remainder unitrust that provides for the trust assets to be divided into two equal and separately administered parts for the benefit of the designated life beneficiary of each part makes it possible for the total payments in a taxable year to be less than the total aggregate trust income required to be distributed by the trustee under section 664(d)(3) of the Code and thereby precludes the trust from qualifying as a charitable remainder unitrust.

14. Rev. Rul 76-467, I.R.B. 1976-48, 10

An acceptable method is set forth for determining the net fair market value of the assets of a charitable remainder unitrust from which payments are made to the income beneficiary prior to the annual valuation date.

15. Rev. Rul 77-58, I.R.B. 1977-11, 8.

An otherwise qualifying charitable remainder trust, whose trustee is not prohibited or limited by the trust instrument from exercising the power granted under State law to invade the trust for the benefit of the donor and the beneficiary, does not qualify as a charitable remainder trust.

16. Rev. Rul 77-73, I.R.B. 1977-13, 7.

An inter vivos trust otherwise qualifying as a charitable remainder trust, the governing instrument of which provides that the sole independent trustee is to allocate the specified distribution among three named individuals in such amounts and proportions as it shall from time to time determine until the death of the survivor of such individuals, qualifies under section 664 of the Code.

Section 2036:

1. Rev. Rul 76-273, I.R.B. 1976-29, 12.

The entire value of the corpus of an inter vivos charitable remainder unitrust from which the grantor retained a life payment of a unitrust adjusted payout rate of 5.660 percent or greater is includible in the decedent's gross estate. The method is provided to compute the proportion of the trust assets includible in the gross estate for a unitrust adjusted payout rate less than 5.660 percent.

Section 2055:

1. Rev. Rul 69-285, 1969-1, C.B. 222.

Under Massachusetts law, a bequest of the residuary estate to the executrix with instructions to distribute the property to whatever charities she may deem worthy qualifies for a charitable deduction under section 2055 of the Code.

2. Rev. Rul 70-450, 1970-2, C.B. 195.

A charitable deduction is not allowable for a charitable remainder trust where the trustee's power to invade corpus for unforeseen occurrences creates, in addition to a limited power, an indefinite and immeasurable standard of invasion for life tenants.

3. Rev. Rul 70-451, 1970-2, C.B. 196.

A bequest in trust otherwise deductible under section 2055 (a)(3) is not allowable by virtue of section 2055 (c) of the Code where the decedent's son's interest-free notes are renewed, without adequate security, by the trustee in the year of the transfer of the bequest.

4. Rev. Rul 71-200, 1971-1, C.B. 2072.

A deduction is not allowed where it is not clearly evident from the terms of the will that the testator intended to limit distribution of corpus and accumulated income to organizations coming within the scope of section 2055 of the Code.

5. Rev. Rul 71-6, 1971-1, C.B. 273.

No deduction is allowable under section 2055 of the Code where the trustee-life income beneficiary's power to terminate all or part of the trust could terminate both her own interest and a charity's remainder interest.

6. Rev. Rul 71-221, 1971-1, C.B. 274

A charitable deduction is not allowed for the value of a charitable remainder interest in a testamentary trust where the corpus may be used to pay all taxes imposed on the trust or on the interest of any trust beneficiary.

7. Rev. Rul 71-441, 1971-2, C.B. 335.

A bequest by an Alabama decedent to a trust for distribution to such charitable organizations as the trustee may select does not qualify for a charitable deduction under section 2055 of the Code.

8. Rev. Rul 71--42, 1971-2, C.B. 336

No deduction is allowable for a charitable trust remainder where the life tenant is decedent's 56-year-old son, who had neither natural nor adopted children at decedent's death in 1968, and payment to charity is contingent upon the life tenant's death without surviving children.

9. Rev. Rul. 71-483, 1971-2, C.B. 337.

The value of a charitable trust remainder is deductible, prior to the Tax Reform Act of 1969, when the income beneficiary's interest in the corpus has been disclaimed in a court-enforced timely agreement between the income beneficiary and the trustee.

10. Rev. Rul 74-97, 1974-1, C.B. 281.

A decedent's bequest of his residuary estate to charitable organizations, after specified monthly payments to be made to his widow during the predictable period his estate would be administered, results in an ascertainable amount allowable as a deduction under section 2055 of the Code. Section 201 of the Tax Reform Act of 1969 does not apply in this instance as the will was executed before Oct. 9, 1969, and the testator died before Oct. 9, 1972.

11. Rev. Rul 75-414, 1975-2, C.B. 371.

A ten percent interest in a trust includible in the decedent's gross estate, as augmented by the residuary estate payable into the trust, payable immediately by the trustee to a charity which under local law is entitled to receive a ten percent interest in each asset comprising trust corpus and income from the date of death to distribution is not an interest transferred in trust and is allowable as a charitable deduction under section 2055(c) of the Code.

12. Rev. Rul 76-17, 1976-1, C.B. 279.

A charitable remainder testamentary trust not meeting the requirements of section 2055(e)(2)(A) of the Code, created by a will executed in March 1974 and reformed by a probate court to convert the life beneficiary's income interest to a life annuity and to pay over the remaining funds to the named charity after administration of the estate will not meet the requirements of section 2055(e)(3).

13. Rev. Rul 76-165, 1976-1, C.B. 279.

The remainder value of household furnishings contained in a deceased spouse's personal residence at the time of death in 1975, that are bequeathed to the surviving spouse for life and then to a charitable organization, does not qualify as a deductible remainder interest in personal residence under section 2055(a) of the Code.

14. Rev. Rul 76-198, 1976-1, C.B. 280.

The estate of a decedent who died after October 9, 1972, is not entitled to a charitable deduction under section 2055 of the Code for amounts bequeathed to a charitable remainder trust that does not qualify as a charitable remainder annuity trust or a charitable remainder unitrust under section 664 or a pooled income fund under section 642(c)(5), even though the estate of the decedent's spouse, who died prior to October 9, 1972, was entitled to a charitable deduction for amounts bequeathed to the same trust.

15. Rev. Rul 76-225, 1976-1, C.B. 281.

No charitable deduction is allowable under section 2055(a) of the Code for the value of an annuity interest passing to a qualified charity upon the death of each of three individual recipients under a charitable remainder annuity trust that provides an annuity to the decedent's spouse for life and at the spouse's death to the individuals. The value of the charitable remainder interest, however, is deductible.

16. Rev. Rul 76-291, I.R.B. 1976-31, 10.

An otherwise qualifying testamentary trust providing for payment until the death or remarriage of the income beneficiary fails to qualify as a charitable remainder trust and no charitable deduction is allowable under section 2055(a) of the Code. A similar trust providing for a reduced payment upon the beneficiary's remarriage, with the balance of the beneficiary's share distributed to the charitable remainder beneficiaries, does qualify; however, no deduction is allowed for the value of the contingent unitrust amount payable to charity upon the beneficiary's remarriage.

17. Rev. Rul 76-357, I.R.B. 1976-38, 25.

No charitable deduction is allowable under section 2055 of the Code for a remainder interest in a decedent's personal residence passing to charity upon death of the decedent's child for whom the residence was held in a testamentary trust, valid under applicable local law, that is neither a charitable remainder annuity trust or unitrust nor a pooled income fund.

18. Rev. Rul 76-370, I.R.B. 1976-39, 11.

A charitable remainder trust executed before 1973, whose governing instrument was amended in 1975 by the trustee as provided by section 2055 (e)(3) of the Code after the grantor's death earlier that year, may qualify as a charitable remainder unitrust, even though the amended instrument does not contain certain mandatory provisions which were suspended in certain cases by section 1.664-1(g)(2) of the regulations and a deduction for the remainder interest is not disallowed.

19. Rev. Rul 76-504, I.R.B. 1976-51, 18.

The estate of a decedent who executed a will and died after 1969 is not entitled to a charitable deduction under section 2055(a) of the Code for a remainder interest in a split-interest trust that was created under the will of a testator who died before 1970, granted the decedent of a power of appointment, which the decedent failed to exercise, and provided, upon failure of the decedent to exercise the power, for a life estate to another party with the remainder payable to a charitable organization.

20. Rev. Rul 76-543, I.R.B. 1976-52, 38.

No charitable deduction is allowable under section 2055 for a remainder interest in a decedent's personal residence that, upon termination of a life estate, vested in a charitable organization and an individual as equal tenants in common because the charity was not given the entire remainder interest.

22. Rev. Rul 76-545, I.R.B. 1976-52, 40.

A charitable deduction is allowable for the value of a charitable remainder interest in a split interest trust, which did not meet the requirements of section 2055(e)(2)(A) of the Code and was not amended or conformed to meet that section, that passed directly to the charity upon the death of the noncharitable income beneficiary prior to the due date of the decedent's estate tax return.

23. Rev. Rul 76-546, I.R.B. 1976-52, 41

The death of the life beneficiary of a charitable remainder unitrust, before the due date of the decedent-grantor's estate tax return and before any distributions have been made, is not equivalent to a disclaimer of such interest or a termination of a power to consume or invade the property for purposes of section 2055(a) of the Code.

24. Rev. Rul 77-97, I.R.B. 1977-15, 18.

A charitable deduction is not allowable to the estate of a decedent who bequeathed the residuary estate in trust, with the spouse and a charity each entitled to half of the income and, upon the spouse's death, half of the trust corpus is to be distributed to the charity and half of the trust corpus is to be distributed to the spouse's heirs.

25. Rev. Rul 77-169, I.R.B. 1977-20, 22.

No charitable deduction is allowable under section 2055 of the Code for a remainder interest in a decedent's personal residence bequeathed to charity under a will which provides that the remainder is to be sold upon the life tenant's death and the entire sale proceeds are to be paid to charity; Rev. Rul. 76-543 amplified.

26. Rev. Rul 77-374 I.R.B. 1977-40, 17

No deduction is allowable under section 2055 for a charitable remainder (annuity) trust unless the trust has an ascertainable percent value under prescribed actuarial tables and unless there is less than a 5% probability that the annuitant will live to exhaust the principal.

Section 2522:

1. Rev. Rul 70-452, 1970-2, C.B. 199

A charitable remainder interest in an irrevocable trust subject to invasion to make fixed payments to the life tenant is not deductible under section 2055 or 2522 of the Code where the probability that the transfer will not occur is greater than five percent.

2. Rev. Rul 76-371, I.R.B. 1976-39, 12.

The deduction for a remainder interest transferred in trust to an organization described in sections 170(c), 2055(a), and 2522(a) of the Code is not disallowed under section 2522(c)(2) where the trustee has the power, exercisable during the donor's life, to add and/or substitute additional organizations described in section 170(b)(1)(A) as remaindermen.

3. Rev. Rul 76-473, I.R.B. 1976-48, 17.

A charitable remainder interest in a personal residence donated to a church in 1976, subject to a 20-year term for a noncharitable tenant, is valued for gift tax purposes without taking into consideration the elements of depreciation for the period during which the property will be in the noncharitable tenant's possession. The value of the charitable remainder interest is higher for gift tax purposes than for income tax purposes.

4. Rev. Rul 77-132, I.R.B. 1977-17, 18.

The governing instrument of a charitable remainder trust, not a charitable remainder annuity trust, a charitable unitrust, or a pooled income fund, may not be amended under section 2055(e)(3) of the Code so as to be treated as such a trust, unitrust, or fund from the date the trust was initially created for purposes of the gift tax charitable deduction under section 2522.

5. Rev. Rul 77-223, I.R.B. 1977-26, 16

An example illustrates that the allowable annual charitable deduction for a unitrust interest passing to a qualified charity under a 10-year and 1-month trust will be less if the trust provides for payment to the charity of the greater of 2 percent net fair market value of trust property or the trust income than if the trust provided for payment limited to a 2 percent unitrust amount with any excess income accumulated.

6. Rev. Rul 73-297, 1973-2, C.B. 67.

A remainder interest in farm property donated to the United States for use as a national park by a donor corporation which reserved to itself an estate for the life of a husband and wife or either of them as survivor, is deductible as a charitable contribution in the year it is paid.

7. Rev. Rul 73-339, 1973-2, C.B. 68.

A gratuitous contribution of an open space or scenic easement in perpetuity without expectation of economic benefit to the donor is a charitable contribution deductible under sections 170 and 2522 of the Code and, if not separately and distinctly valued, the value of the gift may be determinable according to the "before and after" approach.

8. Rev. Rul 74-53, 1974-1, C.B. 60.

A contribution of appreciated income-producing securities to a university through a charitable remainder unitrust, whose governing instrument contained no express or implied obligation to sell or exchange securities, is a deductible charitable contribution, subject to the limitation of section 170(b) of the Code, in an amount equal to the actuarial computation of the present value of the remainder interest valued at net fair market value at the time the securities were transferred to the trust.

9. Rev. Rul 76-307, I.R.B. 1976-33, 7.

The transfer of property to a charitable remainder unitrust, the trustee and remainder beneficiary of which was an organization described in sections 170(c) and 2522 of the Code at the time of the transfer, will qualify for a charitable contribution and gift tax deduction even though the governing instrument of the trust limits ultimate distribution to organizations described in section 170(c) and there exists the remote possibility the charitable remainderman would not qualify under sections 170(c) and 2522 upon termination of the trust. A charitable deduction to the donor's estate will depend on qualification of the charitable remainderman under section 2055 at the date of the donor's death.

10. Rev. Rul 77-305, I.R.B. 1977-35, 10

No deduction is allowable for the gift of a remainder interest in a personal residence to a charity by the donors who placed a condition on the gift requiring the donee to sell its remainder interest and receive cash in lieu thereof if the donors decided to sell the residence before they die.